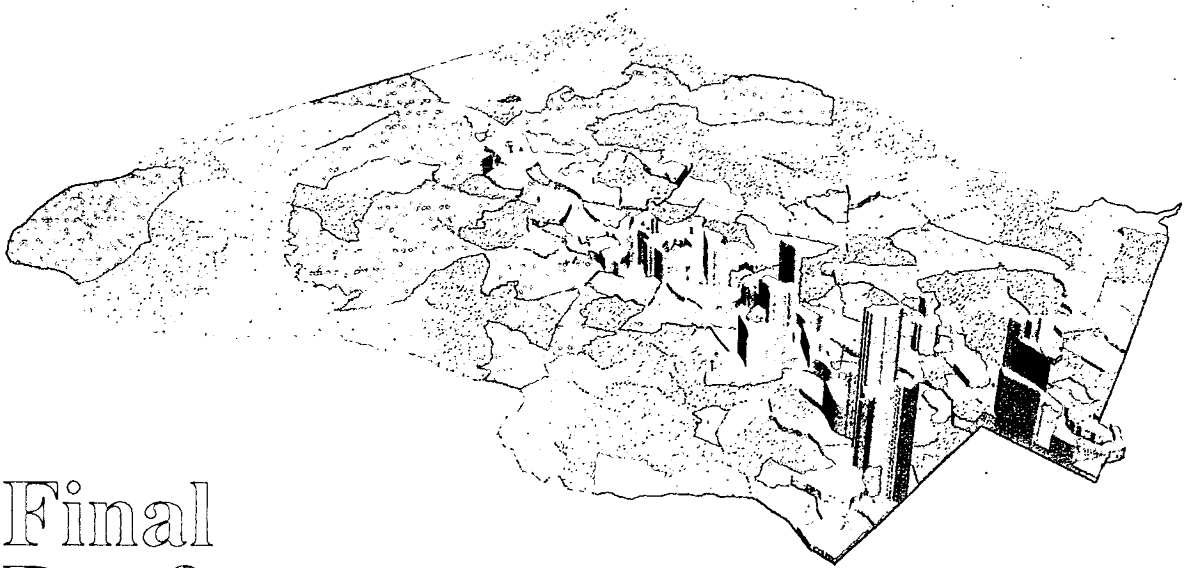
1999-2001

Annual Growth Policy
Policy
Element



Final
Draft

Montgomery County Planning Board
Recommendations for the Administration of
Montgomery County, Maryland's
Adequate Public Facilities Ordinance

Montgomery County Planning Board
Maryland-National Capital Park and Planning Commission
June 15, 1999

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
8787 Georgia Avenue • Silver Spring, Maryland 20910-3760
(301) 495-4605

Montgomery County Planning Board
Office of the Chairman

June 15, 1999

Isiah Leggett
President
Montgomery County Council
100 Maryland Avenue
Rockville, Maryland 20850

Dear Mr. Leggett:

I am pleased to transmit the Final Draft 1999-2001 Annual Growth Policy *Policy Element*, which contains the Montgomery County Planning Board's recommendations on growth management policy issues and the administration of the adequate public facilities ordinance.

The Planning Board's analysis and recommendations encompass the specific issues identified by the County Council for study – time limits for a finding of adequate public facilities, the Alternative Review Procedure for Expedited Non-Residential Development ("Pay-and-Go"), and the counting of background traffic in Local Area Transportation Review – to name several. But recognizing that the Council is also engaged in a review of infrastructure financing issues, the Planning Board took a step back to look at both the AGP and infrastructure financing together and to make a series of recommendations to:

1. Support Smart Growth initiatives by streamlining the development approval process in selected areas.
2. Increase opportunities to obtain additional financing for needed infrastructure and traffic mitigation programs.
3. Amend certain aspects of the Pay-and-Go legislation to reflect more than a year's experience in implementing the program.

In preparing for the AGP Policy Element, the Planning Board reviewed the AGP to identify areas where the AGP does not appear to produce desired results, procedures which restrict development unnecessarily or permit development where it should not, and procedures which create an unequal distribution of costs of infrastructure. In general, the Planning Board's recommendations seek to simultaneously increase revenues for funding transportation facilities while permitting additional flexibility in approving development in the areas best suited for growth. Within that framework, the Planning Board is proposing steps to make the AGP a more accurate and timely vehicle for matching the pace of development with the provision of public facilities.

The Montgomery County Planning Board recommends the following:

1. Implement a countywide development impact tax.

2. Include transit facilities in calculating Development Impact Tax and expand impact tax expenditures to include pedestrian and transit facilities. Implicitly or explicitly recognize in the impact tax calculation that public expenditures on school facilities to support growth increases the need for private contributions toward transportation facilities needed to support growth.

3. Count transportation infrastructure fully-funded in the first five years of capital budgets, rather than the first four years.

4. Permit the Planning Board to set the time limits on a finding of adequate public facilities at subdivision, based upon the size and type of development proposed, with the general effect of shortening APF time limits to a standard of six years, up to 12 years for large projects. The general guideline for a subdivision eligible for longer than 6 years would be 150,000 square feet of commercial development (in more than one building) or 200 units of residential development.

5. Discount the pipeline to better reflect the fact that much of the approved pipeline will not be constructed.

6. Within Transportation Management Districts, require existing employers (50 or more employees) to participate in the TMO.

7. Local Area Transportation Review for large projects should test only the first six years of projects development. Development beyond six years would either pay a fee determined at the time of the initial approval or undergo a second review at the end of the first six years.

8. Revise the Alternative Review Procedure for Expedited Non-Residential Development Approval by:

    a. Making ineligible for approvals under the procedure those policy areas in moratorium because of existing development.

    b. Limiting approvals under the procedure to only those policy areas that are well-served by transit, a.k.a., "Red Line Policy Areas."[1]

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[1] "Red Line Policy Areas" include policy areas well-served by Metro's Red Line: Bethesda-Chevy Chase, Silver Spring-Takoma Park, Kensington/Wheaton, North Bethesda, Derwood, and R&D Village, Rockville, and Gaithersburg, as well as the Metro station policy areas contained in these policy areas: Bethesda CBD, Glenmont, Grosvenor, Friendship Heights, Shady Grove, Twinbrook, Silver Spring CBD, and White Flint.

c. Generally increasing the Expedited Development Approval Excise Tax, but varying the tax paid in each policy area by the availability and usage of transit in that policy area, thereby charging the highest taxes in areas least able to accommodate additional development, and charging the lowest taxes in areas most able to accommodate new development.

d. Clarify that building permits must be received within four years of preliminary plan approval rather than two years from recordation.

e. Direct pay-and-go revenues received in transportation management districts to the TMO serving that district, or toward other master-planned transportation improvements in that district. Otherwise, continue with present method of allocating revenues.

f. Continue to require prepayment of 10 percent of the Expedited Development Approval Excise Tax.

g. Eliminate exemptions for first 1,200 square feet and exemptions for educational institutions.

h. Eliminate the credit of the pay-and-go tax against the impact tax.

i. In Metro station policy areas where pay-and-go is not available because of sector plan staging constraints, permit the use of pay-and-go for additions that will generate fewer than 50 trips.

j. Allow residential development to use the *Alternative Review Procedure for Expedited Development Approval* in Metro station policy areas and eliminate the *Alternative Review Procedure for Metro Station Policy Areas.*

At the June 10, 1999 public hearing on the proposed amendment to the AGP to suspend certain pay-and-go approvals, Councilmember Praisner requested that the Planning Board review the issue of pay-and-go approvals of non-residential development on residentially-zoned land. The Planning Board will review this issue prior to the public hearing on this AGP Policy Element and transmit its report to the Council.

Because the above recommendations are significant, and the impact of their implementation may not be immediately apparent to affected residents and developers, the Montgomery County Department of Park and Planning staff will hold at least one public forum on the Planning Board's recommendations this summer. The forum will include a review of the analysis underlying the recommendations as well as an opportunity for participants to ask questions and explore specific issues.

The Montgomery County Council asked the Planning Board to review two other issues not addressed by the above recommendations. The first is whether the special conditions in the Annual Growth Policy related to the Silver Spring CBD should be revised in light of the Planning Board's Final Draft Silver Spring CBD Sector Plan. In general, the Planning Board believes that these conditions should remain in the AGP because they are necessary to the orderly implementation of the recommended Sector Plan. The Board is suggesting a minor editorial change, as well as the addition of explanatory language concerning transportation management districts in other parts of the County. The Planning Board also suggests that Silver Spring CBD staging ceilings be re-examined when the recalibration of the AGP's transportation model is complete next spring and the new sector plan has been adopted.

The second issue concerns measuring the effect of Automated Transportation Management Systems (ATMS) on reliving traffic congestion in the County. One purpose of this study is to determine if additional development capacity could be added to a policy area's staging ceilings if one or more ATMS initiatives are implemented. If so, a developer might be able to address either staging ceiling or intersection congestion conditions by financing ATMS improvements.

Key to measuring the effects of ATMS is software which can capture and analyze the streams of data created by these systems. In concert with a working group, staff has identified candidate software and is pursuing its use. The Planning Board believes this is a very promising avenue of exploration and looks forward to sharing with you the result of this effort as it becomes available.

In the previous two AGP Policy Elements, the relatively slow pace of job growth and development was a concern which focused our discussions on ways the AGP could allow additional development to be approved. Although the Planning Board did not agree that the AGP was responsible for either condition, the Board certainly understood that the impetus behind those proposals reflected a sincere desire to protect the prosperity of our citizens.

Today, however, conditions in the economy in general -- and in the development economy particularly -- have improved to the point that spurring the pace of development need no longer be our overriding concern. Job growth has been at very healthy levels since 1996 and is continuing to increase. There is now almost 3 million square feet of commercial development under construction in the County, providing the space to support this pace of job growth. In addition, our housing market is enjoying record sales, especially in our older communities.

The healthy market for both residential and commercial development provides the appropriate environment for considering changes to our growth policy and our infrastructure

financing mechanisms that support true Smart Growth: economic vitality supported by adequate public facilities to assure that prosperity does not compromise our quality of life.

Sincerely,

Bill Hussmann

William H. Hussmann
Chairman

WHH:KWM

FINAL DRAFT

1999-2001 ANNUAL GROWTH POLICY
POLICY ELEMENT

for

MONTGOMERY COUNTY, MARYLAND

including

Recommendations for Administration of the Adequate Public Facilities Ordinance

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
Montgomery County Planning Board
8787 Georgia Avenue
Silver Spring, Maryland 20910-3760

ABSTRACT

TITLE:	Final Draft 1999-2001 Annual Growth Policy Policy Element
AUTHOR:	Montgomery County Planning Board Maryland-National Capital Park and Planning Commission
SUBJECT:	Recommendations for the Administration of the Adequate Public Facilities Ordinance and Growth Capacity Ceilings for Montgomery County, Maryland
PLANNING AGENCY:	The Maryland-National Capital Park and Planning Commission
SOURCE OF COPIES:	The Maryland-National Capital Park and Planning Commission 8787 Georgia Avenue Silver Spring, Maryland 20910-3760 301-495-4700
DATE:	June 15, 1999
NUMBER OF PAGES:	140
ABSTRACT:	Montgomery County Code Section 33A-15 establishes the process by which the Montgomery County Council provides guidance for the management of growth. The Code requires the Montgomery County Planning Board to release a Final Draft Annual Growth Policy Policy Element by June 15 of odd-numbered years. This Final Draft Policy Element addresses specific growth policy issues identified by the County Council. This document will be transmitted to the Montgomery County Executive and County Council. During the summer, the County Executive, Montgomery County Public Schools, and the Washington Suburban Sanitary Commission have an opportunity to comment on the Planning Board's recommendations and to make recommendations of their own. The County Council will hold a public hearing in September or October 1999 on these recommendations, followed by Council worksessions. Any changes to the Annual Growth Policy adopted by the County Council will go into effect on November 1, 1999.

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Note: Issue 4, "Restructuring the Annual Growth Policy," includes recommendations on several issues identified by the County Council for discussion in this AGP Policy Element, including: setting the time limits for a finding of adequate public facilities, the Alternative Review Procedure for Expedited Non-Residential Development Approval ("Pay-and-Go"), and the development impact tax.

Introduction

Growth Policy Issues and Recommendations for 1999-2001

Issue 1: Accounting for Traffic Growth in the Development Review Process

In adopting the Policy Element of the FY98 Annual Growth Policy (AGP), the County Council identified the following issue that "should be addressed by the Planning Board and the County Executive for presentation to and decision by the County Council no later than in the 1999 review of the Policy Element of the Annual Growth Policy:"

> ***Growth of Background Traffic** - The Planning Board, with the aid of the Executive and in consultation with development and civic community representatives, must study the issue of traffic growth not already being accounted for, and if or how that growth should be accounted for in each step of the development review process.*

In order to assist staff in addressing this issue, and in line with the County Council resolution, the Planning Board formed the Traffic Growth Working Group (TGWG), made up of representatives of the development and civic communities, academia, traffic consultants, and the County Executive.

The Montgomery County Planning Board has determined that the traffic studies for Local Area Transportation Review reasonably track or somewhat overestimate future traffic conditions for at least the first six years after a development project is approved. This finding strengthens the Planning Board's recommendation (see Issue 4 and Appendix 3a) to shorten most approvals to six years (see Issue 4) and is consistent with the time span of the state and county transportation capital programs that provide an essential framework to the transportation analysis.

Based on the study findings, the Planning Board is recommending that LATR be performed every six years. For development applications desiring a six-year APF approval, the LATR traffic study would be performed once, and would be based on existing traffic plus nearby approved but unbuilt development traffic (background with a six-year pipeline) plus site traffic. If intersection congestion standards are exceeded by the development, then the applicant must propose appropriate mitigation for the application to be approved.

For "large" developments desiring an approval for up to 12 years, the Planning Board recommends that LATR be performed twice: an initial LATR traffic study be performed for only the phase of the development expected to be constructed in the first six years; and a second LATR study performed for the second phase of development.

To ensure that development projects are not hit with unexpectedly high costs mid-project, if the second phase of the project fails the second LATR test, the developer would have the option of making the required improvement or paying a pre-determined tax.

The full project would have to pass Policy Area Transportation Review (staging ceiling) at the time of preliminary plan approval. The guideline for "large" development projects would be: for non-residential, more than one building and a minimum of 150,000 square feet; for residential, at least 200 housing units)

Issue 2: Measuring the Effect of Advanced Transportation Management Systems

The Department of Park and Planning Staff, with the aid of the Executive and interested transportation professionals and citizens, continues to pursue mechanisms to measure the effects of Advanced Transportation Management System (ATMS) technologies, such as possible increases in intersection capacity or spreading of peak period traffic volumes. A requisite first step is to identify sofware able to convert ATMS data streams into information useful for planning and analysis.

In response to the directive from the Planning Board and County Council, a working group comprised of DPWT staff, Park and Planning staff and traffic consultants has identified an analytical tool which is believed to be potentially useful in evaluating the transportation benefits of various Intelligent Transportation System (ITS) deployment options — reflecting those benefits in the Department's Policy Area Transportation Review procedures. This tool, called the ITS Deployment Analysis System (IDAS), is a software package currently under development by a consultant team under the direction of the Federal Highway Administration.

Future tasks for the working group include: (1) the acquisition and evaluation of the upgraded version of IDAS; (2) maintaining close communication with other users of IDAS in an effort to keep abreast of their experience with the software and (3) conducting sensitivity testing of IDAS in order to assess the utility of the software as tool to assist staff in establishing appropriate Policy Area Transportation Review credits for private participation in ATMS enhancement or expansion.

Issue 3: Silver Spring CBD Staging Ceiling and LATR Standard

The Montgomery County Planning Board recommends that the special provisions in the Annual Growth Policy to determine staging ceilings (Policy Area Transportation Review), and the standards used to determine acceptable intersection congestion (Local Area Transportation Review), be retained. The Planning Board recently approved the Final Draft Silver Spring Central Business District and Vicinity Sector Plan which reviewed both staging ceiling and intersection congestion issues. The Final Draft Sector Plan supports this recommendation.

Current AGP development capacity in the Silver Spring CBD will allow just over half of the remaining commercial development, and all of the residential development, envisioned in the Final Draft Sector Plan, to be approved. Additional development capacity, sufficient to support

all of the development envisioned in the Plan, is expected from planned transportation improvements, such as the transit center and the Georgetown Branch transitway.

The Planning Board has one minor correction to be made to the AGP "administrative guidelines" for Silver Spring CBD staging ceilings. The Board recommends rephrasing the guideline to make the relationship between staging ceilings and intersection congestion clearer.

The Planning Board also recommends that the language concerning transportation management goals in North Bethesda and Bethesda CBD be added to the AGP. There is similar language in the AGP discussing the transportation demand management goals in the Silver Spring CBD.

Issue 4: Restructuring the Annual Growth Policy

The Montgomery County Planning Board is recommending significant changes to the Annual Growth Policy and the Development Impact Tax to a) support Smart Growth initiatives by streamlining the development approval process in selected areas; b) increase opportunities to obtain additional financing for needed infrastructure improvements and traffic mitigation programs, and c) amend certain aspects of the Pay-and-Go legislation to reflect more than a year's experience in implementing the program. The Board's recommendations encompass specific issues identified by the County Council for review (time limits on a finding of adequate public facilities, the Alternative Review Procedure for Expedited Non-Residential Development Approval, infrastructure financing) as well as issues identified by the Board.

The Montgomery County Planning Board's recommendations are:

1. Implement a countywide development impact tax.
2. Include transit facilities in calculating the development impact tax and expand impact tax expenditures to include pedestrian and transit facilities. Recognize in the impact tax calculation that the lack of an impact tax for school facilities to support growth (as is common in other Maryland jurisdictions) increases the need for private contributions toward transportation facilities needed to support growth.
3. Count transportation infrastructure fully-funded in the first five years of capital budgets, rather than only in the first four years.
4. Permit the Planning Board to set the time limits on a finding of adequate public facilities at subdivision, based upon the size and type of development proposed, with the general effect of shortening APF time limits to a standard of six years, with up to 12 years allowed for large projects. The general guideline for a subdivision eligible for longer than 6 years would be 150,000 square feet of commercial development or 200 units of residential development.
5. Discount the pipeline to better reflect the fact that much of the approved pipeline will not be constructed.
6. Within Transportation Management Districts, require existing employers (50 or more employees) to participate in the TMO.

7. Local Area Transportation Review for large projects should test only the first six years of projects development. Development beyond six years would either pay a fee determined at the time of the initial approval or undergo a second review at the end of the first six years.

8. Revise the Alternative Review Procedure for Expedited Non-Residential Development Approval ("Pay-and-Go") by:

   a. Making ineligible those policy areas in moratorium because of *existing* development (as opposed to policy areas in moratorium due solely to approved but unbuilt development).

   b. Limiting approvals under the procedure to only those policy areas that are well-served by transit, a.k.a., "Red Line Policy Areas."

   c. Generally increasing the Expedited Development Approval Excise Tax, but varying the tax paid in each policy area by the availability and usage of transit in that policy area, thereby charging the highest taxes in areas least able to accommodate additional development, and charging the lowest taxes in areas most able to accommodate new development.

   d. Clarifying that building permits must be received within four years of preliminary plan approval rather than two years from recordation.

   e. Directing pay-and-go revenues received in transportation management districts to the TMO serving that district, or toward other master-planned transportation improvements in that district. Otherwise, continue with present method of allocating revenues.

   f. Continuing to require prepayment of 10 percent of the Expedited Development Approval Excise Tax.

   g. Eliminating exemptions for first 1,200 square feet and exemptions for educational institutions.

   h. Eliminating the credit of the pay-and-go tax against the impact tax.

   i. In Metro station policy areas where use of pay-and-go is not permitted because of sector plan staging issues, permitting the use of pay-and-go for commercial additions that generate less than 50 trips.

   j. Allowing residential development to use the *Alternative Review Procedure for Expedited Development Approval* in Metro station policy areas and eliminate the *Alternative Review Procedure for Metro Station Policy Areas.*

Issue 1

Accounting for Traffic Growth in the Development Review Process

Council Resolution Concerning this Item

In adopting the Policy Element of the FY98 Annual Growth Policy (AGP), the County Council identified the following issue that "should be addressed by the Planning Board and the County Executive for presentation to and decision by the County Council no later than in the 1999 review of the Policy Element of the Annual Growth Policy:"

> **Growth of Background Traffic** - The Planning Board, with the aid of the Executive and in consultation with development and civic community representatives, must study the issue of traffic growth not already being accounted for, and if or how that growth should be accounted for in each step of the development review process.

Recommended Local Area Transportation Review Process

The Montgomery County Planning Board is proposing revisions to the current procedures that are consistent with other proposed changes to the AGP to shorten the length of approval for most developments from 12 to six years, and also to address the special conditions associated with the relatively small number of large, multi-phased developments that typically take more than six years to build-out.

The Planning Board's recommendation is based in part on staff's extensive review of forecasts contained in traffic studies compared with actual intersection conditions several years later. This review confirmed that traffic studies tend to reasonably track or somewhat overestimate future traffic conditions for at least the six-year period recommended. Back-checking ourselves on how well we actually have been estimating future traffic conditions was an important and innovative methodology for assessing the need for changes to the process. The Planning Board's recommendation to shorten most approvals to six years is consistent with the time span of the state and county transportation capital programs that provide an essential framework to the transportation analysis. The six years is also well within the time frame where actual conditions are at or better than the forecast, which is the goal from a public policy perspective.

Transportation review approvals are proposed to be issued based on the following procedures:

1. Most developments will follow the existing process for conducting a traffic study to satisfy LATR. The traffic study would be based on existing traffic (turning movement counts within one year) plus "nearby" (as determined by staff in conjunction with the applicant) approved but unbuilt development traffic (background with a six-year

pipeline) plus site traffic. If intersection congestion standards are exceeded by the development, then appropriate mitigation must be proposed for the application to be approved.

This necessitates a change in the existing 12-year Adequate Public Facilities (APF) approval. The revised APF approval will be good for six years, (Record plats in three years; building permits in six years total) a conservative time frame given the decreasing accuracy of traffic studies as the time between study and actual conditions increases. If not met, the APF will expire; a new traffic study will be required; no more building permits will be issued.

2. a. For large developments, (more than one commercial building and a minimum of 150,000 SF of commercial or office development, or 200 housing units) phased development will allow an approval to remain valid for up to 12 years. The traffic study would be based on existing traffic (turning movement counts within one year) plus nearby (as determined by staff in conjunction with the applicant) approved but unbuilt development traffic (background with a six-year pipeline) plus site traffic generated during the first six years. The full project must pass Policy Area Review at the time of subdivision.

   b. For this longer approval time it is proposed that a second-phase tax will be set, that will be applied to all portions of the development beyond the initial phase of six years. This tax would be set at a level to cover an appropriate private sector share of transportation infrastructure. The tax would be set at the time of subdivision, based on the Board's determination of what can be expected to build-out in the first six years, using the developer's declaration as a base. The Planning Board suggests that an appropriate level may be 1.5 times the development impact tax being recommended in other AGP discussions It must be more than the basic tax to assure that only applicants who actually need the additional time will apply for it.

   c. At the end of six years, if the project is not 100% built out, the developer may either 1) prepare another traffic study based on current conditions at that time and mitigate trips if needed, or 2) pay the predetermined tax to cover future transportation infrastructure improvements. If the development is complete within six years, the developer still pays the tax as agreed at subdivision.

Key Assumptions

The philosophy behind this recommended process is that the County will have more money from both the initial development tax and the second phase taxes with which it can provide more transportation infrastructure of all modes. It becomes a merging of public and private funds, to allow the County to make the most effective changes, which could be to provide roadways, advanced transportation management system (ATMS) deployment, or transit capital facilities as appropriate. The identified problem of intersections getting more congested over time, and developers generally not being inclined to build improvements other than those most

helpful to their site, is a real one and requires changes to the current procedures if it is to be effectively addressed.

In developing these recommendations, the Planning Board has relied on some key assumptions and approaches to guide them. One essential concept is that any proposal must meet certain expectations of the development community. Among these expectations is that any LATR process should provide a developer certainty in terms of the cost of transportation mitigation once the approval is obtained. Another is that once an approval for the total project is obtained, it would not be lost due to subsequent transportation analysis (unless it was allowed to expire or otherwise did not meet agreed upon conditions). The Planning Board feels that the recommendations meet these criteria.

Another equally important concept is that the interests and expectations of the affected citizens and the users of the transportation network must be protected. One comment often heard in this regard is that traffic mitigation funds should be focused at "big-picture" projects, not just small intersection improvements, and even allow for funding of transit. Certainly the infrastructure needed to support development must be provided in a timely manner. The revised process will insure that needed improvements are required of developers and that longer range multi-modal needs are addressed and accounted for through a new traffic study after six years or payment of the tax.

A basic underpinning of the recommendations was the finding that projects that take longer to build out allow the local intersection conditions to worsen more than projected in the traffic study. Currently, preliminary plans, and therefore APF approvals, are for 12 years. Many projects do not take this long. However, multi-phased projects tend to develop over a longer period of time and so have impacts that are not fully accounted for.

A six-year time horizon is reasonable for traffic studies. This is the time frame of the County and State capital programs, and little information is available for determining what projects are expected beyond this time period. Since other transportation projects can significantly effect the traffic patterns and volumes, this is a major constraint. It also becomes more difficult to forecast traffic volumes from land uses at the turning movement level with sufficient accuracy to do detailed designs when looking beyond the six-year time, since economic and other factors can easily change in this time period.

The six-year time is supported by the analysis that was conducted of current intersection conditions as compared with those predicted in traffic studies. This is presented in more detail in the Analysis and Findings section of this report. The finding was that for at least the first six years the current LATR procedures tend strongly to reasonably estimate or overestimate the actual future traffic conditions. At some future point the trend becomes an underestimation of future traffic. This is understandable, given that longer range (beyond six years) improvements to the transportation infrastructure and not accounted for in traffic studies.

Rather than using a growth factor to try to adjust the future volumes, which was found to have many technical drawbacks and uncertainties, the Planning Board is recommending shortening the approval time to six years, a time period during which there is more certainty

about future estimates. For longer approvals, a tax can be used to account for future infrastructure needs.

Alternative Procedure Considered but Not Recommended

In a desire to more closely tie the future payments to direct impacts, an alternative procedure has been raised by citizens. For all development beyond the initial six year phase, the developer would perform a second phase analysis. This would include the forecasts for the first phase, and additional trips from the following two calculations:

1. the remainder of the site traffic, and

2. projections of increased growth of through movements on major and arterial roadways. This growth would be determined by applying a "growth factor" established for the policy area, as determined by the Planning Board.

The impact of the second and subsequent phases would be the total of 1and 2 above. Improvements to mitigate these would be identified, and form the basis for approval decisions.

The Planning Board does not recommend this procedure for the following three reasons. First, the County and State transportation projects that will be available or in planning after six years are not known, and these can significantly influence the conditions at intersections. Second, travel patterns at the turning-movement level are difficult to predict for project-level planning when forecasting beyond six years. It is better to make these determinations as the time they are needed draws closer. Finally, if undesignated, the funds collected from the tax could be used to focus on larger, more complex improvements, rather than on smaller, unconnected improvements that tend to come out of LATR studies.

The Planning Board Analysis and Findings

As part of the effort to respond to the Council request, the Planning Board reviewed comparable traffic study processes in other local Maryland jurisdictions, and analyzed historical traffic data and traffic trends. The following summarizes the results of this research.

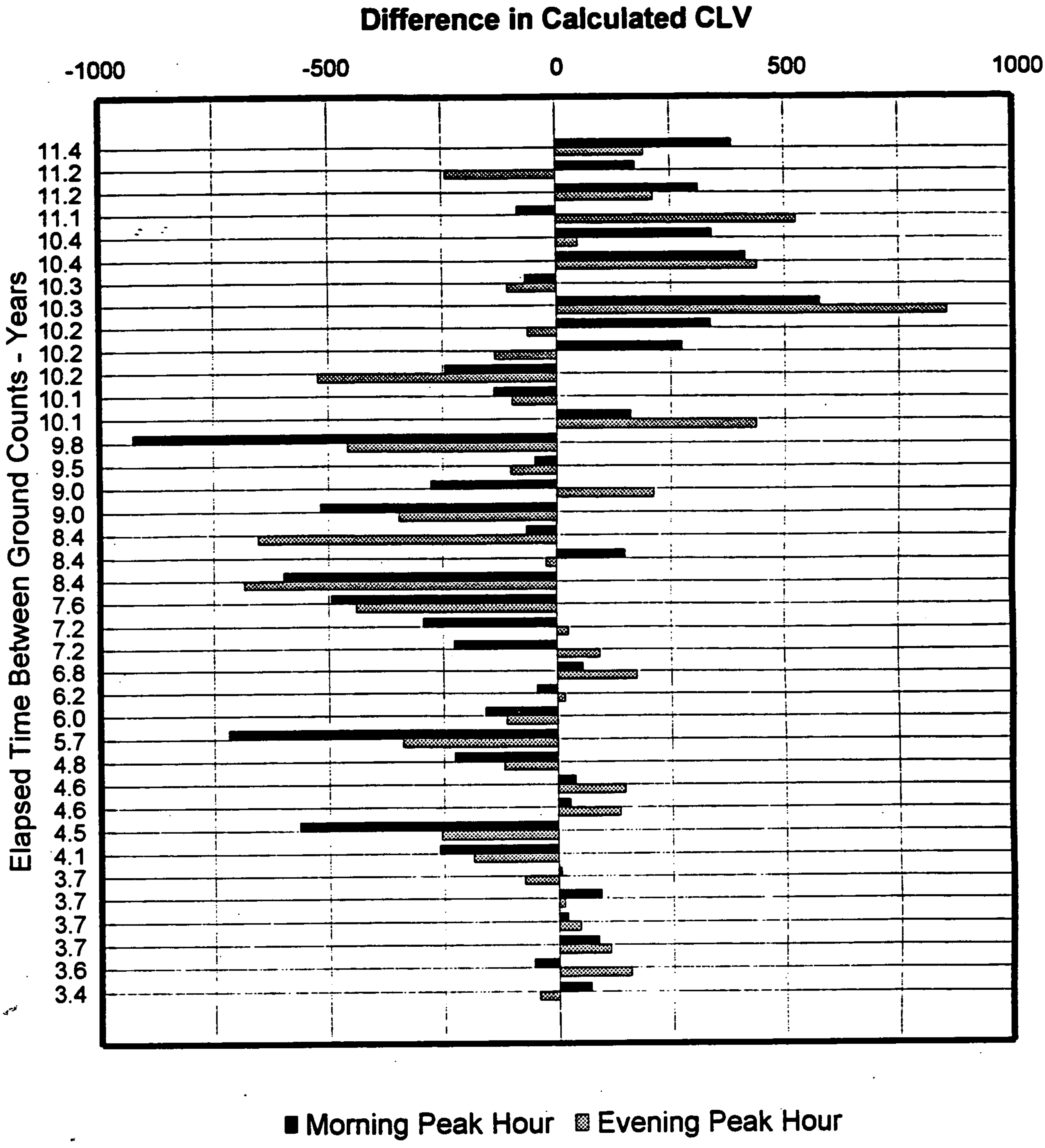
Nearby jurisdictions follow procedures that are similar in terms of the steps that they set forth to prepare and process traffic studies. The major differences are the degree of emphasis on the different elements of the study, the specific factors that are selected for the study, and the values used in the quantitative analysis of traffic conditions. In general, as the jurisdictions that were selected for study are located further from the central core, the standards they impose permit less congestion. However, since the specific details of the analyses are different in each jurisdiction, it is not possible to make comparisons of the results achieved in one jurisdiction with those achieved in another. Thus, the exact same proposal evaluated in one jurisdiction and found acceptable could fail in an adjoining jurisdiction.

In an effort to determine how well the current process performs in predicting the future conditions, comparative CLV data was developed for selected intersections. These were ones where a traffic study had been used to forecast future conditions, and an actual count was taken at

FIGURE 1

CRITICAL LANE VOLUME COMPARISONS

Difference Between Actual Change and Study Projected Change



Ranked by Elapsed Time between first and last ground counts

Bars on left are cases where Actual change is less than Projected; Bars on right are cases where Actual exceeds Projected

FIGURE 2

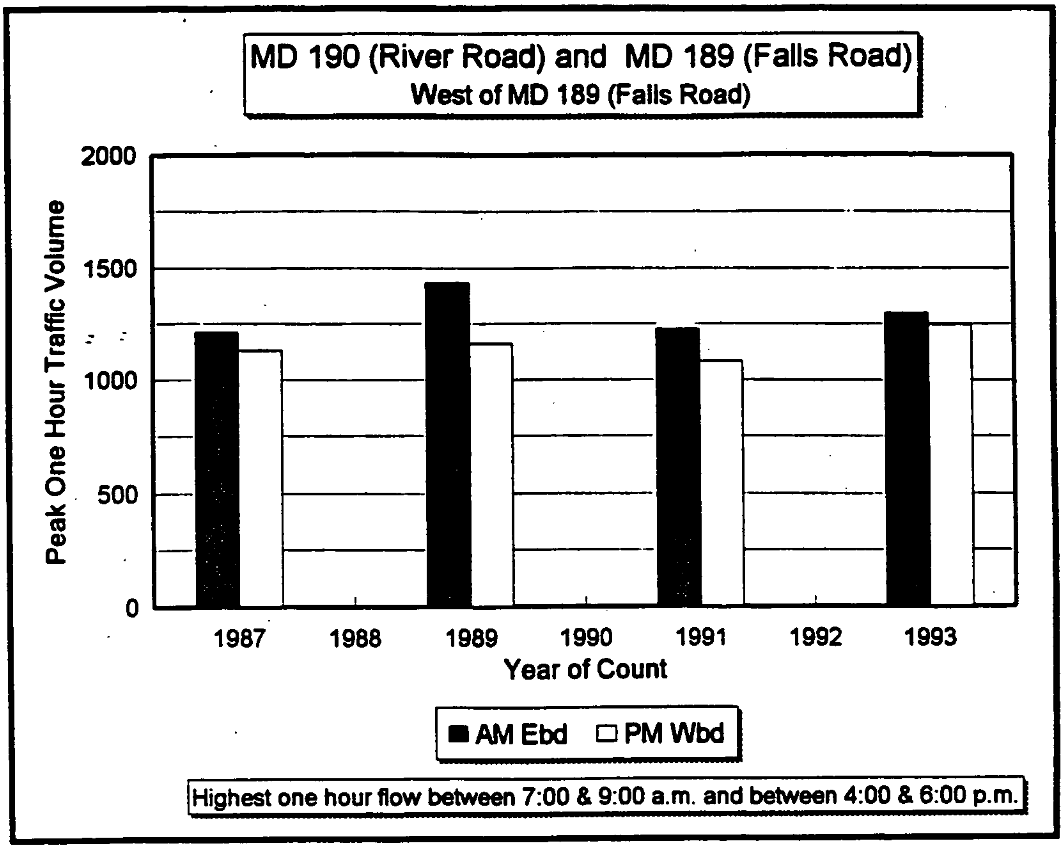


FIGURE 3

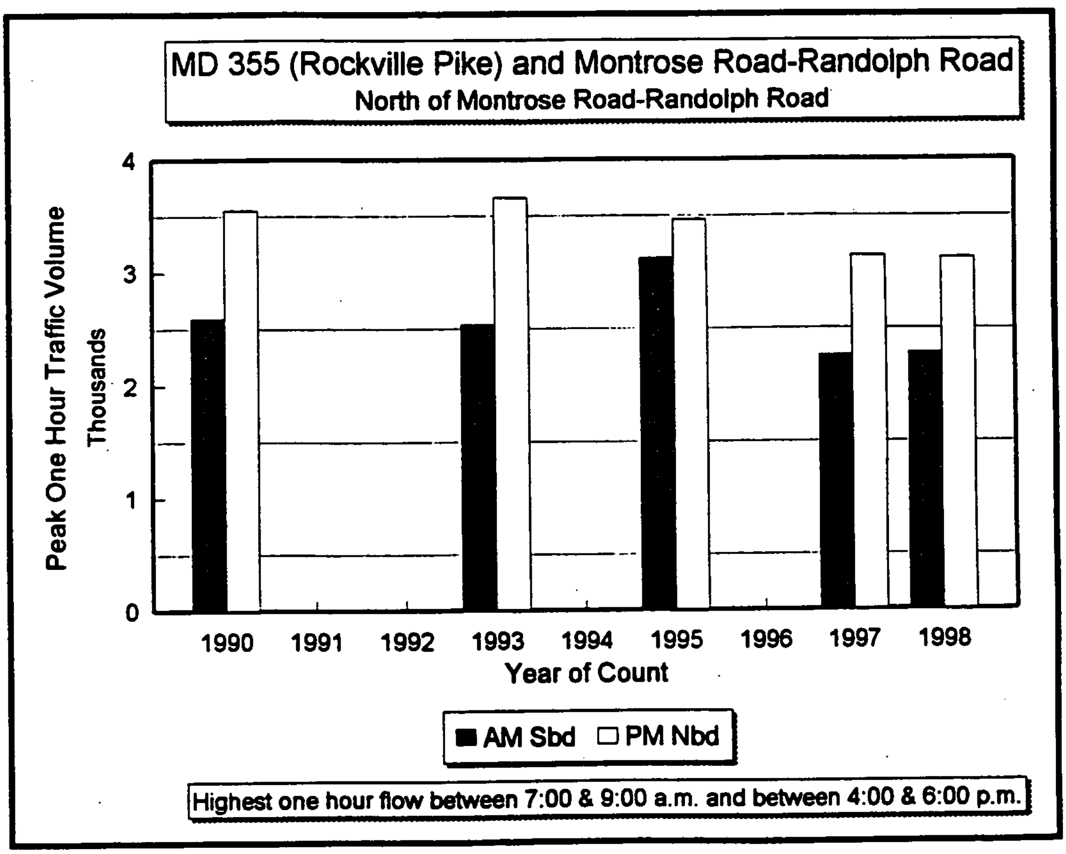
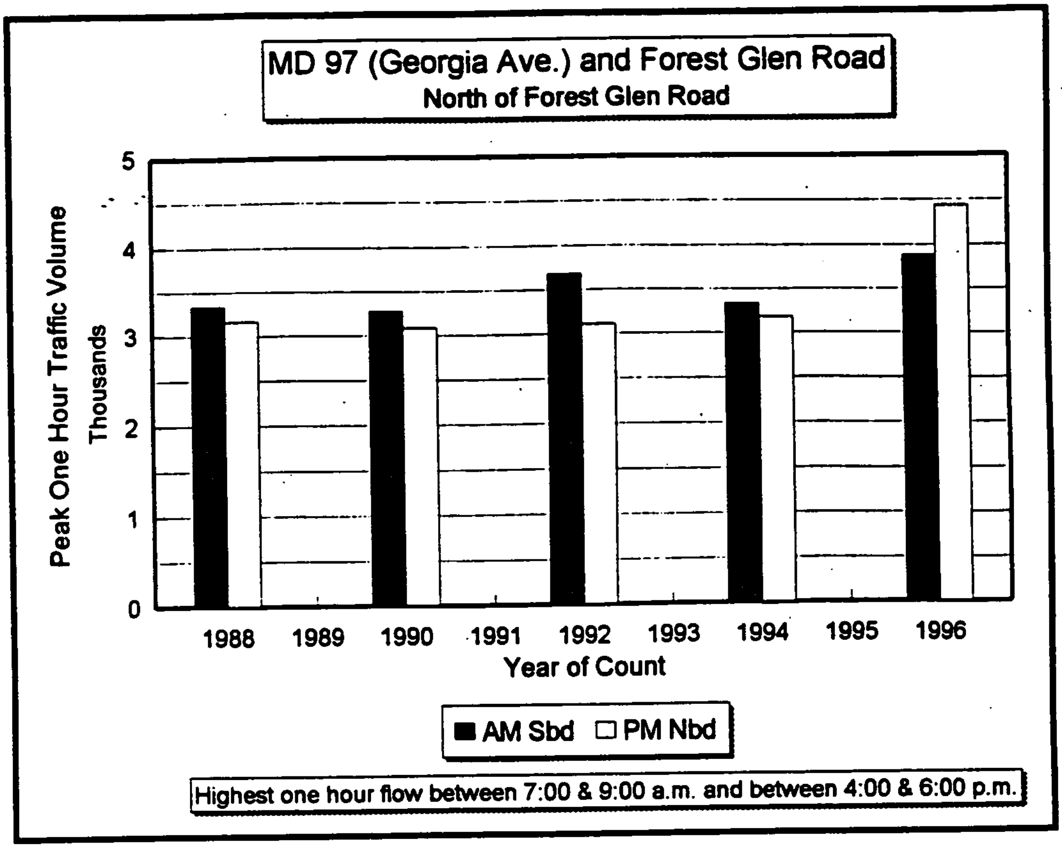


FIGURE 4


MD 97 (Georgia Ave.) and Forest Glen Road
North of Forest Glen Road
Peak One Hour Traffic Volume
Thousands
0
1
2
3
4
5
1988
1989
1990
1991
1992
1993
1994
1995
1996
Year of Count
AM Sbd
PM Nbd
Highest one hour flow between 7:00 & 9:00 a.m. and between 4:00 & 6:00 p.m.

a time subsequent to the study. **Figure 1** presents some of this analysis. In this figure, the lines to the left of center are cases where the difference between the forecast and actual Critical Lane Volume was negative, indicating the forecast was higher than actual. Cases on the right of center are where the forecasts were less than actual. Time between the forecast and actual runs from bottom to top.

Reviewing this data shows that the current LATR process is working satisfactorily for the time frame in which it was structured, about five to six years in the future. Study forecasts tend to more closely track or overestimate future traffic for at least five to six years, and up to nine or ten years, but tend to underestimate future traffic beyond nine or ten years. This is reasonable since only five to six years of transportation improvements are included in the analysis, and background growth will occur each year into the future.

For LATR, transportation improvements are counted if they are reflected in the most recent Approved Road Program published by the County Department of Public Works and Transportation, the definitive document concerning what can be counted for LATR. That document requires that construction is to start in two years with 100% funding appropriated in the current six-year CIP (County) or programmed in the current five-year CTP (State).

Concerning monitoring traffic increases, there is growth occurring on the various road system elements in Montgomery County, but there is no ongoing process to measure the magnitude on a current and consistent basis throughout the County. The information that was reviewed suggests a typical growth rate in a range of three to three and one-half percent. However, this would vary by side and main streets, and among different turning or through movements at each location.

Data is available and can be analyzed for individual roadway links, and this was done. The annual increase in peak hour traffic, as reflected in the State Highway Administration's (SHA) permanent count stations on I-495, I-270 and U.S. 29 and data at selected intersections on major arterials (River Road, MD 355, Georgia Avenue, Columbia Pike), is 3% to 3.5% on an estimated average. This compares to an increase in jobs and housing per year in the County estimated at 3.3%.

However, as indicated in **Figures 2, 3 and 4,** there is no clear pattern of peak hour traffic growth at any one intersection. Rather, there are fluctuations over time that cannot be reasonably predicted or estimated. When looking at other locations, generally, annual increases are lower inside the Beltway than up county. For example, it appears there have been stable annual daily traffic volumes in Friendship Heights for over 20 years (although this is probably based on a limited number of counts). This would not be the case in the I-270 area.

Traffic growth is most easily defined for the larger roadways, and the heavier movements. For smaller streets, and many turning movements, traffic growth is more directly related to any change in nearby development, or changes to the roadway network. This makes growth factors very difficult to calculate for all but the major movements.

Traffic Growth Working Group

In order to assist the Planning Board in addressing this issue, and in line with the County Council resolution, the Planning Board formed the "Traffic Growth Working Group" (TGWG). This group assisted the Planning Board in addressing the complex issue of how to best account for background traffic. The recommendations made in the AGP are not endorsed by the TGWG, and there was not consensus among the group on the most appropriate approach to dealing with traffic growth.

The Traffic Growth Working Group was made up of representatives of the development and civic communities, academia, traffic consultants, and the County Executive. The following people constituted the membership of the TGWG:

Ron Welke	M-NCPPC (Chair)
Perry Berman	Wilkes, Artis, Hedrick & Lane
Everett Carter	University of Maryland
Keith Goodman	Office of the County Executive, Montgomery County
Richard Hawthorne	M-NCPPC
Ed Papazian	Traffic Consultant
Steve Petersen	Consultant to M-NCPPC Staff
Carl Starkey	Public Works & Transportation, Montgomery County
John Viner	Montgomery County Civic Federation
Dan Wilhelm	Greater Colesville Civic Association
Mike Workosky	Traffic Consultant

The TGWG met monthly from November 1998 to June 1999. The Planning Board is very appreciative of the efforts made by this group to grapple with the difficult and technical issues presented to them. They compiled data, made analyses, and presented or reviewed many recommendations, and their input was essential to the Planning Board in developing the final procedures. However, all of them wish to maintain their ability to present individual testimony to the Council on this and related topics.

Issue 2

Measuring the Effect of ATMS

Summary

The Department of Park and Planning Staff, with the aid of the Executive and interested transportation professionals and citizens, continues to pursue mechanisms to measure the effects of Advanced Transportation Management System (ATMS) technologies, such as possible increases in intersection capacity or spreading of peak period traffic volumes. A requisite first step is to identify sofware able to convert ATMS data streams into information useful for planning and analysis. This status report provides an update on the progress of the working group and a review of future tasks.

Montgomery County's ATMS

The purpose of this work effort is to investigate the value of ATMS system expansion or enhancement by developers in return for credits toward Policy Area Transportation Review or Local Area Transportation Review. The focus of this investigation is to encourage private participation using credits commensurate with the benefits expected to the system in terms of reduced congestion.

Montgomery County's Department of Public Works and Transportation (DPWT) has one of the most sophisticated operating ATMS in the United States. It is the first system of its kind to truly integrate traffic and transit operations into one seamless transportation system. The system includes real-time control of all 700+ traffic signals in the County, peak period aerial surveillance, automatic vehicle locators, transit preemption for buses, remote control video surveillance cameras, over 1,000 system detectors, traveler advisory radio, television broadcast of current information, and a possible future County-owned radio station.

ATMS allows the existing transportation network to be used more efficiently by using real-time data to help both system operators and users make better-informed decisions about transportation alternatives, e.g. mode choice and route choice and when to travel. Such decisions could effect both the volume and capacity critical locations, e.g. intersections, on the system.

For example, the ATMS can adjust the timing of signals on minute-by-minute or cycle-by-cycle basis to optimize the efficient use of available green time. Such action

could allow more throughput, i.e. critical lane volume, and thus accommodate more traffic at the same level of service.

As another example, travelers can be provided with more accurate and timely information about system conditions, e.g. unplanned incidents. With such information, provided by an Advanced Traveler Information System or ATIS, they make better-informed decisions regarding mode and/or route choice, as well as the time of day they choose to travel.

Such decisions can tend to balance the use of the transportation system, both in terms of the use of the total network during a given peak period and in terms of the use of the network during a typical weekday. Such decisions may minimize the peaking characteristics that cause sever congestion and excessive delay on the network.

Study to Measure the Effect of ATMS

In response to the directive from the Planning Board and County Council, a working group comprised of DPWT staff, Park and Planning staff and traffic consultants has identified an analytical tool which is believed to be potentially useful in evaluating the transportation benefits of various Intelligent Transportation System (ITS) deployment options — reflecting those benefits in the Department's Policy Area Transportation Review procedures. This tool, called the ITS Deployment Analysis System (IDAS), is a software package currently under development by a consultant team under the direction of the Federal Highway Administration. The software includes a database library which reflects the transportation benefits of various ITS deployment strategies (such as the ATMS elements noted above) based on case studies conducted in areas similar to Montgomery County. IDAS is designed to evaluate the relative costs and benefits of ITS investments using outputs, e.g. trip tables and transportation networks, from regional travel demand models such as the modeling system applied by Park and Planning staff in support of the AGP. For example, the tool is designed to capture the changes in travel time and throughput which are derived form a variety of ITS strategies including: (1) signal coordination; (2) HOV priority traffic operations; (3) electronic toll collection systems and; (4) ATMS/ATIS. A limited-capability prototype version of IDAS is currently under review by the working group. An upgraded version of IDAS is anticipated to be released later this year.

IDAS reflects the first real attempt to develop an analytical approach that "mainstreams" ITS into the planning process and begins to place this technology on the same "level playing field" as more traditional transportation system improvements, such construction of roadways or the provision of increased transit service. Furthermore, the

software is relatively low-cost and will allow staff to take advantage of software maintenance and enhancement support without needing to invest Department resources in these areas.

Future tasks for the working group include: (1) the acquisition and evaluation of the upgraded version of IDAS; (2) maintaining close communication with other users of IDAS in an effort to keep abreast of their experience with the software and (3) conducting sensitivity testing of IDAS in order to assess the utility of the software as tool to assist staff in establishing appropriate Policy Area Transportation Review credits for private participation in ATMS enhancement or expansion.

Issue 3

Silver Spring CBD Staging Ceiling Provisions and Local Area Transportation Review Standards

The Montgomery County Planning Board recommends that the special provisions in the Annual Growth Policy to determine staging ceilings (Policy Area Transportation Review), and the standards used to determine acceptable intersection congestion (Local Area Transportation Review), be retained. The Montgomery County Planning Board recently approved the Final Draft Silver Spring Central Business District and Vicinity Sector Plan which reviewed both staging ceiling and intersection congestion issues. The Final Draft Sector Plan supports this recommendation.

Current AGP development capacity in the Silver Spring CBD will allow just over half of the remaining commercial development, and all of the residential development, envisioned in the Final Draft Sector Plan, to be approved. Additional development capacity, sufficient to support all of the development envisioned in the Plan, is expected from planned transportation improvements, such as the transit center and the Georgetown Branch transitway.

The Planning Board has one minor correction to be made to the AGP "administrative guidelines" for Silver Spring CBD staging ceilings. The Board recommends rephrasing the guideline to make the relationship between staging ceilings and intersection congestion clearer.

The Planning Board also recommends that the language concerning transportation management goals in North Bethesda and Bethesda CBD be added to the AGP. There is similar language in the AGP discussing the transportation demand management goals in the Silver Spring CBD.

The Silver Spring CBD Sector Plan Update

When new Master Plans or Sector Plans are prepared, it is customary to review Annual Growth Policy provisions regarding the plan area in light of plan goals, policies, and recommendations. The Montgomery County Planning Board approved a Final Draft Silver Spring CBD Sector Plan in March 1999. This Draft Sector Plan is an update to the approved and adopted 1993 Silver Spring CBD Sector Plan. The Draft Plan

"...confirms the general vision of the 1993 Sector Plan to rejuvenate Silver Spring's Core as a varied an active town center, but redirects the vision from a regional

mall with major comparison shopping to a community-oriented downtown of mixed housing, retail, and employment options."

To accomplish its objectives, the Plan incorporates zoning incentives designed to encourage redevelopment in the major revitalization areas of the downtown. These initiatives add redevelopment options in some cases by allowing an increased intensity of use than is permitted by the 1993 Sector Plan, which downzoned some properties.

A major element in the Sector Plan update is an analysis of current and future transportation conditions in the CBD, given the revised land use recommendations, as well as analysis of the impact of a revitalized CBD on traffic conditions in the surrounding Silver Spring/Takoma Park area. The transportation analysis found that the transportation impacts of the 1999 Final Draft Sector Plan's proposed land uses are consistent with those proposed in the 1993 Sector Plan,

The main findings of the transportation analysis, from an AGP perspective, are that:

1. Analysis of forecasted land use and travel demand indicates that land use proposals are generally in balance with transportation capacity, as determined using current AGP policies and practices.

2. The special AGP provisions for Silver Spring CBD are necessary to achieve this balance between proposed land use and transportation capacity.

Policy Area Transportation Review (Staging Ceilings)

The current staging ceilings in the Silver Spring CBD are sufficient to accommodate much of the development envisioned in the Sector Plan. The Final Draft Sector Plan allows for an additional 11,100 jobs and 2,900 housing units above existing levels. Of these, a little over half (6,340) of the new jobs and all of the housing units can be accommodated by current staging ceilings. These figures include both projects in the pipeline of approved development as well as capacity available for new approvals.

As part of the analysis for this issue, Department of Park and Planning staff expected to test whether the current transportation network in the Silver Spring CBD could support higher staging ceilings. Staff did not, for several reasons. The first is that there is sufficient jobs capacity for the foreseeable future. The second is that the updated Sector Plan has not yet been adopted. The third is that the Montgomery County Department of Park and Planning is currently engaged in upgrading the TRAVEL/2 model, which is used to set staging ceilings. As part of the upgrade, transportation modeling staff are also "revalidating" the model, which means updating the data upon which the ex-

pected transportation impacts of land use forecasts are based. The new model is expected to be available by spring of 2000. The Planning Board recommends that the Silver Spring CBD staging ceilings be re-tested at that time.

Potential new development capacity comes from several sources, including the increase in transit level of service provided by the planned transit center as well as the Georgetown Branch transitway, increases in the percentage of workers and residents using transit, and some modest potential capacity from two AGP-related procedures: the "transferability" of development capacity option, and a potential conversion of housing capacity to jobs capacity.

Transferability of Development Capacity: In 1998, the Montgomery County Council approved an amendment to the Annual Growth Policy which permits the transfer of development capacity from vacant structures (provided they are torn down) to new development. The transfer can be to new development on the same site or to another site in the CBD. The transfer may be jobs-to-jobs, housing-to-housing, housing-to-jobs, or jobs-to-housing. The purpose of this amendment is two-fold: to provide additional incentive to landowners to demolish vacant and dilapidated buildings, and to provide an additional source of development capacity for redevelopment. As was acknowledged at the time, this AGP amendment will at best make a modest contribution to redevelopment efforts. However, the provision continues to remove one potential barrier to redevelopment in Silver Spring.

Conversion of Housing Capacity to Jobs Capacity: Current AGP staging ceilings permit an additional 6,123 housing units to be approved in the Silver Spring CBD. As noted above, the 1999 Final Draft Sector Plan expects about 2,900 housing units. The high housing ceilings reflect calculations of the maximum possible number of housing units buildable in the CBD at the time of the last change to the CBD's staging ceilings in 1993, rather than the reasonably expected number of housing units figure used in the 1999 Final Draft Sector Plan. Because of its location inside the Beltway on the boundary with the District of Columbia, because of the approximately 4-to-1 jobs-to-housing ratio, and because of its excellent transit level of service, fairly large amounts of new housing can be accommodated in the Silver Spring CBD with relatively minor impacts on the transportation network during the peak period (this is also true in Friendship Heights and to a lesser extent in Bethesda CBD). For these same reasons, jobs capacity has comparatively greater impacts on traffic conditions during the peak period. Therefore, although the AGP may have allocated "excess" housing capacity to Silver Spring CBD, it would take a reduction of many housing units in capacity to gain a small amount of new jobs capacity (the actual conversion ratio would depend on a

variety of factors at the time of conversion). So while this option will not offer a significant source of new jobs capacity, it is available if needed in the future.

Silver Spring staging ceilings must meet a number of "administrative guidelines." The Planning Board has the following comments:

1. The second guideline states that "The average level of service for the surrounding Silver Spring/Takoma Park Policy Area must not be worse than the adopted roadway level of service standard shown in Table 6, unless the Planning Board determines that the impact of improving the intersection is more burdensome than the increased congestion." This wording may be confusing because it concerns but does not make explicit the relationship between Policy Area Transportation Review (staging ceilings) and Local Area Transportation Review (intersection congestion). Staging ceilings are based upon standards for *average* roadway level of service; that is, the average level of service for travel on roadway links between intersections. Local Area Transportation Review is based upon standards for congestion on *individual* roadway links and intersections. This guideline is expressing the concern that increased staging ceilings in the Silver Spring CBD not create both excessive roadway link congestion or excessive intersection congestion in the Silver Spring/Takoma Park policy area, outside the CBD.

   Standard AGP practices already prohibit increasing staging ceilings in one policy area to the point that excessive *average* roadway link congestion occurs in another policy area, so the references to "average level of service" and "Table 6" are unnecessary. On the other hand, the guideline's direction regarding the impact of staging ceilings in the CBD on individual roadway links and intersections in the surrounding Silver Spring/Takoma Park policy area is unique. However, the appropriate reference should be to "intersection levels of service," the standards for which are shown in Table 7 of the adopted AGP. The Planning Board recommends that the guideline be re-written to read, "When tested during a comprehensive circulation analysis, the critical lane volumes for intersections in the surrounding Silver Spring/Takoma Park policy area must not be worse than the adopted level of service standards shown in Table 7, unless the Planning Board determines that the impact of improving the intersection is more burdensome than the increased congestion."

2. The third guideline reads, "The outbound traffic, including both local CBD traffic and through traffic, must not exceed the Silver Spring CBD practical cordon capacity of 18,000 vehicles in the peak hour." The Planning Board notes that the transportation analysis performed for the 1999 Final Draft Sector Plan shows outbound traffic levels are currently at about 13,000 vehicles in the peak hour.

The Sector Plan's traffic analysis shows that expected development will not cause this guideline to be exceeded.

3. The AGP caps long-term public and private long-tem non-residential parking spaces in the CBD at 17,500, which is 90 percent of estimated need after planned development occurs. Currently there are 11,200 such spaces and current surveys indicate mid-day occupancy at about 50 percent. The Final Draft Sector Plan states that "The development recommended in this Plan can be supported within AGP restrictions."

4. The AGP includes commuting goals for new and existing commercial development. For existing employers of 25 employees or more, the goal is 25 percent mass transit use and auto occupancy rates of 1.3 persons per vehicle during peak periods, or any combination of mode choice that results in at least 46 percent non-drivers during the peak period. For new development, the goal is 30 percent mass transit use and auto occupancy rates of 1.3 persons per vehicle during peak periods, or any combination of mode choice that results in at least 50 percent non-drivers during the peak period. The Final Draft Sector Plan relies, in part, upon achievement of these goals to have a balance between planned development and transportation service, and therefore, the goals should remain in the AGP.

Retaining the discussion of the transportation management goals for Silver Spring CBD in the AGP raises the question: since other Metro station policy areas also have transportation management districts, should the AGP also contain language which addresses transportation management goals for these policy areas? The Planning Board believes it would be useful to add such language. The proposed new language is:

"In keeping with recommendations contained in the *North Bethesda/Garrett Park Master Plan* and *The Bethesda Central Business District Sector Plan*, the County Council and County Executive have established transportation management districts in a portion of North Bethesda and Potomac and in Bethesda. Within these districts, certain developers must enter into traffic mitigation agreements with the Planning Board and the Montgomery County Department of Public Works and Transportation to join the transportation management organization, pay its annual fee, and make their best efforts to meet the traffic mitigation goal established for the district.

"In the North Bethesda Transportation Management District, the goal is a 39 percent non-driver mode share for workers and a 30 percent non-driver mode

share for residents of multifamily housing in the peak hour. In the Bethesda Transportation Management District, the goal is a 37 percent non-driver mode share for workers and residents of multi-family housing. Additional transportation demand districts are under development in Shady Grove and in Friendship Heights."

Local Area Transportation Review

Local Area Transportation Review (LATR) determines whether or not development can proceed even if there is no staging ceiling constraint. Pursuant to the adopted Annual Growth Policy, "the Planning Board must not approve a subdivision if it finds that an unacceptable peak-hour level of service will result after taking into account existing roads, programmed roads, available or programmed mass transportation, and improvements to be provided by the applicant. If the subdivision will affect an intersection, or roadway link for which congestion is already unacceptable, then the subdivision may only be approved it is does not make the situation worse."

To administer LATR, the Planning Board adopts *Local Area Transportation Review Guidelines*, which contain the specific procedures for performing this test. There are special procedures for performing LATR in the Silver Spring CBD. Most of the language detailing the special LATR procedures in the Silver Spring CBD are contained in the LATR Guidelines document (pages 12-15), rather than the adopted AGP.

The Silver Spring CBD LATR language that is in the adopted AGP is as follows: "In the Silver Spring CBD Policy Area, the Planning Board, in consultation with the department of Public Works and Transportation, must prepare performance evaluation criteria for its Local Area Transportation Review. These criteria must be used to accomplish: (a) safety for pedestrians and vehicles; (b) access to buildings and sites; and (c) traffic flow within the vicinity, at levels which are tolerable in an urban situation. The County Executive must publish a Silver Spring Traffic Management Program after receiving public comment and a recommendation from the Planning Board. This program must list those actions to be taken by government to maintain traffic flow at tolerable levels in the Silver Spring CBD and protect the surrounding residential area."

Among the special procedures for LATR in the Silver Spring CBD to accomplish the above is the use of queuing analysis in addition to the Critical Lane Volume technique that is the standard for LATR analysis in other policy areas. Queuing analysis looks at the length of the line of cars waiting to go through an intersection, and is applied if the CLV is over 1,800 to ensure queues do not block other key intersections.

The special procedures for LATR in the Silver Spring CBD include the use of special trip generation rates, agreed upon by the County Council when it approved the

Silver Spring amendment to the FY88 AGP (there are also special trip generation rates for the Bethesda CBD and Friendship Heights policy areas). Also taken into account is parking garage capacity and location, location of site parking and loading, a pedestrian safety assessment, and each applicant is required to submit a proposed participation plan for trip reduction measures, prepared in conjunction with the Transportation Management District and Transportation staff.

The additional level of analysis makes the Silver Spring CBD procedure more complex, but the results are less restrictive on new development than in other areas. That is because more information is taken into account in the Silver Spring CBD LATR analysis, it is more precise in documenting congestion levels, allowing the maximum development while ensuring adequate circulation and safety.

Perhaps a better question than, "Should the Silver Spring CBD LATR procedures be more like other Metro station policy areas?" is the question, "Should other areas' LATR procedures be more like Silver Spring CBD's?" That is because the level of analysis in the Silver Spring CBD does provide a better, more precise answer.

Currently, applying the queuing standard requires extensive, expensive data collection at many locations. Even in Silver Spring, this has been difficult to maintain. There are not the resources to expand Silver Spring CBD-style LATR procedures to other areas. The additional level of effort would be prohibitive. Possibly in the near future advances in technology, such as the capture of Advanced Transportation Management Systems (ATMS) data streams, will facilitate the use of these methods in other areas. However, it is also important to keep in mind that there is a classic trade-off at work here: between simplicity (the Critical Lane Volume method) and precision (queuing analysis). At this time, the benefits of the additional level of precision are not sufficiently cost-effective for broad application. Additionally the underlying grid pattern in the Silver Spring CBD road network, which makes the queuing analysis useful, is not available in all other Metro station policy area. This may also restrict the locations where queuing is available.

The workgroup exploring methods to measure the effectiveness of ATMS will be exploring the way in which the data streams generated by traffic monitoring systems can be applied toward tests of congestion created by new development.

Summary of Conclusions

With these two relatively minor edits, the Planning Board recommends retaining the special procedures in the Annual Growth Policy related to the methods for determining staging ceilings and performing Local Area Transportation Review in the Silver Spring CBD.

Issue 4

Restructuring the Annual Growth Policy

Summary of Issue

As part of the 1999-2001 Annual Growth Policy *Policy Element*, the Planning Board has been asked to provide the County Council with guidance regarding possible changes to the "Alternative Review Procedure for Expedited Development Approval," commonly called "pay-and-go." The Council is also engaged in a process to review the Development Impact Tax to determine how it might be changed and has requested input.

This section of the Final Draft 1999-2001 AGP Policy Element contains the Montgomery County Planning Board's recommendations on these issues. However, the Planning Board also took this opportunity to comprehensively review the Annual Growth Policy. The Planning Board is recommending significant changes to the Annual Growth Policy, both in response to questions raised by the County Council and to address several long-standing growth management issues. There are three primary goals that serve as the basis for the Board's recommendations:

1. Support Smart Growth initiatives by streamlining the development approval process in selected areas.
2. Increase opportunities to obtain additional financing for needed infrastructure improvements and traffic mitigation programs.
3. Amend certain aspects of the Pay-and-Go legislation to reflect more than a year's experience in implementing the program.

In preparing for the AGP Policy Element, the Planning Board identified areas where the AGP does not appear to produce desired results, procedures which restrict development unnecessarily or permit development where it should not, and procedures which create an unequal distribution of costs of infrastructure. In general, the Planning Board's recommendations seek to simultaneously increase revenues for funding transportation facilities while permitting additional flexibility in approving development in the areas best suited for growth. Within that framework, the Planning Board proposes steps to make the AGP a more accurate and timely vehicle for matching the pace of development with the provision of public facilities.

Summary of Recommendations

The Montgomery County Planning Board recommends the following:

1. Implementation of a countywide development impact tax.
2. Include transit facilities in calculating the development impact tax and expand impact tax expenditures to include pedestrian and transit facilities. Recognize in the impact tax calculation that the lack of an impact tax for school facilities to support growth (as is

common in other Maryland jurisdictions) increases the need for private contributions toward transportation facilities needed to support growth.

3. Count transportation infrastructure fully-funded in the first five years of capital budgets, rather than only in the first four years.

4. Permit the Planning Board to set the time limits on a finding of adequate public facilities at subdivision, based upon the size and type of development proposed, with the general effect of shortening APF time limits to a standard of six years, with up to 12 years allowed for large projects. The general guideline for a subdivision eligible for longer than 6 years would be 150,000 square feet of commercial development or 200 units of residential development.

5. Discount the pipeline to better reflect the fact that much of the approved pipeline will not be constructed.

6. Within Transportation Management Districts, require existing employers (50 or more employees) to participate in the TMO.

7. Local Area Transportation Review for large projects should test only the first six years of projects development. Development beyond six years would either pay a fee determined at the time of the initial approval or undergo a second review at the end of the first six years.

8. Revise the Alternative Review Procedure for Expedited Non-Residential Development Approval ("Pay-and-Go") by:

   a. Making ineligible those policy areas in moratorium because of *existing* development (as opposed to policy areas in moratorium due solely to approved but unbuilt development).

   b. Limiting approvals under the procedure to only those policy areas that are well-served by transit, a.k.a., "Red Line Policy Areas."[1]

   c. Generally increasing the Expedited Development Approval Excise Tax, but varying the tax paid in each policy area by the availability and usage of transit in that policy area, thereby charging the highest taxes in areas least able to accommodate additional development, and charging the lowest taxes in areas most able to accommodate new development.

   d. Clarify that building permits must be received within four years of preliminary plan approval rather than two years from recordation.

   e. Direct pay-and-go revenues received in transportation management districts to the TMO serving that district, or toward other master-planned transportation improvements in that district. Otherwise, continue with present method of allocating revenues.

   f. Continue to require prepayment of 10 percent of the Expedited Development Approval Excise Tax.

   g. Eliminate exemptions for first 1,200 square feet and exemptions for educational institutions.

h. Eliminate the credit of the pay-and-go tax against the impact tax.

i. In Metro Station Policy Areas where pay-and-go is not available because of sector plan staging constraints, permit the use of pay-and-go for additions that will generate fewer than 50 trips.

j. Allow residential development to use the *Alternative Review Procedure for Expedited Development Approval* in Metro station policy areas and eliminate the *Alternative Review Procedure for Metro Station Policy Areas.*

Themes: Concepts Underlying the Planning Board's Proposals for Restructuring the AGP and Development Impact Tax

To assist in developing its recommendations for the Annual Growth Policy and Development Impact Tax, the Montgomery County Planning Board established principles or "themes" that reflect the Board's objective to assure that policies produce desired results, are equitable, and address the challenge of funding transportation facilities.

The Planning Board's themes are:

1. *The allocation of "free" development capacity to some development while requiring significant infrastructure contributions from others is inequitable.* In the past several years especially, a number of policy areas have had, or now have, multiple development projects vying for a limited amount of development capacity. Those who move fastest can be approved, while other development projects face waiting for publicly-funded capacity or making a substantial investment in infrastructure or taxes. Although this system is justified, the Board's belief is that, all other things being equal, it is better if the costs are distributed equitably than inequitably. Further, the Board believes that all new development should contribute something towards transportation infrastructure, not just "the last in line." In other words, even development that passes AGP tests should contribute to the transportation infrastructure.

2. *The AGP should do more to encourage that new development occurs near transit.* The AGP has several features which favor development near transit — the most powerful being allocations of development capacity to Metro station policy areas as well as less stringent congestion standards in areas with higher transit service and availability. Even so, the patterns of growth over the last two decades suggest that these mechanisms are insufficient. In the past few years, there has been increasing activity, and increased expressions of interest, in locating new development in Metro station areas. The AGP should encourage this trend, by adding development opportunities near transit and by increasing the relative cost of developing in other areas.

   Encouraging development to occur near transit also means supporting these areas with transportation facilities and programs needed to support new growth. In the past year it has been suggested that development moratoriums in Metro station policy areas run counter to principles of Smart Growth. On the contrary, there are limits to the amount of development the transportation network can handle in every policy area, and while the

Attachment 1
Letter from Councilmembers Andrews and Praisner
Requesting Review of Alternative Review Procedure for
Expedited Non-Residential Development

MONTGOMERY COUNTY COUNCIL
ROCKVILLE, MARYLAND

OFFICE OF THE CHAIRMAN
THE MARYLAND NATIONAL CAPITAL
PARK AND PLANNING COMMISSION
RECEIVED
MAR 5 1999
SILVER SPRING, MD.

MEMORANDUM

March 3, 1999

TO: William Hussmann
Chair, Montgomery County Planning Board

FROM: Marilyn Praisner, Councilmember MP
Phil Andrews, Councilmember PA

SUBJECT: Annual Growth Policy Review

As part of the Planning Board's review of the policy elements of the Annual Growth Policy this year, we would appreciate it if you would revisit the issue of Pay and Go. Specifically, we would request that you review the original Planning Board recommendations that limited eligibility to projects in the I-270 corridor, and the following variations:

Include Metro Policy Areas
Increase the rates or relate rates to area infrastructure needs within these eligible policy areas
Limit eligibility to those applications that fail because of background (approved but unbuilt) development
Eliminate current exemptions (i.e. first 1,200 square feet of gross floor area, buildings owned by non-profits, etc.)

Planning Board and staff work on these issues will help us to develop any recommendations we might want to propose for Council consideration.

Cc: Councilmembers
Steve Farber

STELLA B. WERNER COUNCIL OFFICE BUILDING, 100 MARYLAND AVENUE, ROCKVILLE, MARYLAND 20850
301/217-7900 TTY301/217-6505

Attachment 2
Development Impact Tax Issues
Identified by the County Council
Management and Fiscal Policy Committee
for Concurrent Review with
AGP Policy Element

Some Impact Tax Issues

- Currently impact taxes apply only in Germantown and Eastern Montgomery County (Cloverly and Fairland/White Oak). Should it apply to other areas, or even countywide? Should it apply within municipalities in the County?
- If impact taxes are applied within municipalities, should the revenue be shared with them, and if so, to what degree and under what conditions?
- Currently impact tax revenue is used to pay only for transportation infrastructure. Should it contribute to the capital program for schools, libraries, parks, or other public facilities?
- Currently the tax rates are generally based on relative traffic impact. Should there be some other basis for this tax instead of traffic impact?
- Are the current rates generally so low that development is not contributing a meaningful share of revenue for infrastructure, or so high that they are significantly harming economic development?
- Currently the revenue from impact taxes must be spent in the same area where it is collected, and on specific projects described in the law. Should the law continue to identify specific projects to be funded, and should it continue to allocate the funds in the area in which they are generated?
- To what degree should private investments in public infrastructure—because of ceiling flexibility, the Alternative Review Procedure for Metro Station Development, development district payments, the Pay and Go Program, etc.—be credits against the impact tax?

limits are higher in Metro station areas, they are real limits just the same. "Smart Growth" does not justify allowing growth to occur ahead of transportation facilities in any area.

3. *There is a difference between a policy area that is in moratorium because of existing development and a policy area that is in moratorium because of approved-but-unbuilt development.* There are some policy areas that are in moratorium because existing development generates more traffic than the transportation system can handle. There are other policy areas where the transportation network can handle *existing* traffic, but the area is in moratorium because of *approved* development that, if built, would generate more traffic than the network can handle. The Planning Board believes that the AGP should reflect the fact that a policy area in moratorium due to existing development is in a worse situation than one in moratorium due to future development.

4. *Some form of pay-and-go is OK.* Prior to 1994, there were no procedures which allowed development to be approved in moratorium areas if the developer agreed to make a payment in lieu of making transportation improvements. The first procedures to allow such payments were the Alternative Review Procedure for Limited Residential Development and the Alternative Review Procedure for Metro Station Policy Areas. In the first AGP Policy Element, the Planning Board, County Executive and County Council agreed that these procedures should be retained. This is because, in the case of the Alternative Review Procedure for Limited Residential Development, the number of approvals are limited, approvals are not permitted in areas with long and deep deficits, and the developer payment approaches or equals an appropriate share of the cost of infrastructure. In contrast, the Alternative Review Procedure for Expedited Non-Residential Development ("Pay-and-Go") is available in all but one policy area, does not limit the number of approvals, and is inexpensive compared to the cost of infrastructure.

   The value of a procedure that grants approval upon payment of a tax or fee is that it puts development projects of various kinds on a relatively equal footing. Only fairly large projects are able to build their own infrastructure; development districts provide an alternative but only if the developer can persuade others to join him.

   Such procedures do place an additional burden on the public to provide the infrastructure needed by projects approved under these procedures. That is why they must be limited to specific areas and why the payment must represent a significant contribution toward transportation infrastructure.

5. *The rates for payments made in lieu of providing infrastructure should be related to the costs of infrastructure or achieve a public policy objective related to transportation.* The methodology used to calculate the current development impact tax appropriately reflects a policy decision about new development's share of the cost of infrastructure. On the other hand, the "pay-and-go" tax rates are the same whether the proposed development is in White Flint or Clarksburg. If there is a form of pay-and-go, the tax rates should be a mechanism for encouraging development to occur where the public has already made significant investments in infrastructure.

6. *Average APF time limits must be reduced to encourage a vital, healthy, active pipeline.* On the non-residential side especially, it is clear that a twelve-year time limit on a finding of adequate public facilities yields a pipeline of approved development that contains a large number of inactive projects. These projects reserved development capacity that could have been used by others ready to move forward. A twelve year time limit encourages development to be approved well in advance of any expectation of construction.

   Of those localities that have a time limit on preliminary plan approvals, most have much shorter time limits than twelve years. Prince George's and Charles counties, for example, have two-year time limits (although extensions are permitted). The Planning Board believes that some larger projects can require up to 12 years to build out. For smaller projects, however, a shorter time limit is not only appropriate but necessary to ensure that development capacity is available to projects that are ready to move ahead. Previous debates have, in the Planning Board's mind, settled the question that shorter time limits cannot be applied to already-approved projects, but only to new approvals.

7. *Until shorter APF time limits have an effect, the AGP has to better account for the fact that a substantial fraction of approved development will not be built in the short term.* In most AGP calculations, the pipeline of approved development is treated as if it were already built. This means that new applicants are not just evaluated against existing traffic congestion, but also the traffic congestion that would result if all approved development is constructed. This is the safest approach for assuring public facilities adequacy, but it is now clear that much of the approved commercial pipeline projects will expire before they are constructed. In time, shorter APF time limits will address this problem. Until then, some method for "discounting" the approved pipeline will better reflect the pace of *actual* development and provision of public facilities.

8. *The extent of public expenditures on school facilities to support growth increases the need for private contributions toward transportation facilities needed to support growth.* Some counties (many in Maryland) assess impact taxes or fees for school construction; others, like Montgomery County, assess impact and other taxes on new development for transportation infrastructure. Still others assess a variety of taxes for a variety of purposes. Public expenditures to support growth, whether they be toward roads, schools, or other facilities, all come from the same sources. The public's ability to afford a new road depends, in part, on the extent of the public's commitment to build new schools. The Planning Board's point is that these are not separate issues, and when there is debate about how much of a share new development should bear of the cost of transportation infrastructure for growth, the calculations should recognize the public's support of growth in other ways.

The Planning Board's Recommendations for the AGP and the Development Impact Tax

The Planning Board has put together eight major recommendations for restructuring the Annual Growth Policy and the Development Impact Tax. Each recommendation is described as fully as needed to convey the Planning Board's intent and to provide policymakers with a sense

of the positive and negative attributes of the recommended approach. But in some cases there are details that will require additional analysis. For example, the Planning Board did not develop specific recommended tax rates but has provided guidance on how those rates would be structured. The Planning Board would be happy to elaborate on, or further explore, recommendations which attract the Council's interest.

As mentioned previously, these recommendations seek to simultaneously increase revenues for funding transportation facilities while permitting additional flexibility in approving development. Within that framework, the Planning Board proposes steps to make the AGP a more accurate and timely vehicle for matching the pace of development with the provision of public facilities.

Recommendation 1: Institute a Countywide Impact Tax

There is a significant gap between the cost of new transportation facilities and the public resources to pay for them. At the same, new development's contributions to infrastructure are not spread equitably: some development projects contribute significantly while others not at all. A countywide impact tax achieves two goals: increased revenues for transportation programs and infrastructure, and greater equity in assessing new development for its contribution to the need for new infrastructure.

Impact taxes are currently assessed in Eastern Montgomery County and in Germantown. The current method estimates the total cost of County-responsibility roads to support the expected buildout of the zoning envelope and determines the amount of that cost that should be the responsibility of new development (fifty percent in the case of Germantown). The method then determines how much tax each housing unit and square foot of non-residential development must pay, so that when all development is constructed, the fifty percent level has been achieved.

The Planning Board's concept is to have a development impact tax that is the same countywide; that is, a single-family detached home or an office building would pay the same rates no matter where in the County that housing unit or office building is located. The Planning Board views the implementation of a countywide impact tax as key to creating equity in new development's contributions toward transportation infrastructure.

The Planning Board notes that the report on infrastructure financing prepared several years ago by the Economic Advisory Committee with assistance from County staff estimated the cost of future transportation needs to be funded by the County at $2.25 billion. Using estimates of future development of 200,000 housing units and 109,400,000 square feet of non-residential space, the cost per housing unit was estimated at $6,940 and the cost per square foot of non-residential space estimated at $6.81 per square foot. If new development were to pay one-half of the cost of future infrastructure, the rates would be $3,470 per housing unit and $3.40 per square foot for non-residential space. Of course, rates could vary by type of housing unit and type of non-residential development, as they do today.

Appendix 3c contains review of various previous impact tax studies, a review of existing and proposed-but-not-implemented taxes such as the Development Approval Payment and the Construction Excise Tax, and a review of impact tax rates in other jurisdictions.

The Planning Board's expertise in crafting tax policy is limited, and we defer to others with greater expertise. The Board's main concepts, however, are that the impact tax should be countywide, should apply equally, and should be related to the actual cost of needed improvements.

Recommendation 2: Include Transit Facilities, and Possibly Schools, in Calculating the Development Impact Tax

In some policy areas, transit facilities (and programs to encourage transit usage) are necessary to achieve a balance between land use and transportation. A countywide impact tax calculation should include these facilities and programs, which should also receive impact tax expenditures. The impact tax rate selected should implicitly or explicitly recognize that public expenditures on school facilities to support growth increases the need for private contributions toward transportation facilities needed to support growth.

Recommendation 3: Count Five Years of Programmed Transportation Improvements

Currently, the AGP "counts" transportation infrastructure fully-funded in the first four years of capital budgets. Years ago, the precursor to the AGP counted transportation projects 50 percent funded in the six-year CIP. Because some counted transportation facilities were not built, or were deferred, development was approved for which there were no transportation facilities. Because of this, the AGP requirement for countability was tightened in stages over several years in the 1980s.

The Planning Board believes that changes in the way projects are added to the capital program have greatly increased the likelihood that programmed facilities will be built. Several years ago, the facility planning process was instituted to assure that projects would not be added to the CIP only to find out later that cost or other factors made the project infeasible. Requiring transportation projects to undergo facility planning means that projects that are added to the CIP are much more likely to move to completion. In addition, the CIP is now on a two-year cycle, which reduces opportunities for changing programmed facilities.

Counting transportation projects that are fully funded in the first five years of the CIP does not, ultimately, create additional capacity; rather, it allows the capacity to be made available one year sooner. If *Recommendation 4* below, which would shorten the time limit of a finding of adequate public facilities to 6 years in many case, is also adopted, it would result in a significantly closer tie between the expected pace of development and the provision of public facilities (6 years of development supported by five years of facilities) than there is at present (12 years of development supported by four years of facilities).

Recommendation 4: Set APF Time Limits at Subdivision, Vary According to Size and Type of Development

The current time limit on a finding of adequate public facilities is twelve years, except for partially-completed residential subdivisions which have no time limit. The Planning Board recommends that APF time limits reflect the size and type of development, and be set by the

Planning Board at the time of subdivision. Significant background on this issue is included in Appendix 3a.

The Planning Board recommends that the standard APF time limit be six years, and that time limits of greater than six years, while at the discretion of the Planning Board, would generally not be granted unless the subdivision consisted of more than one building and was at least 150,000 square feet (non-residential projects) or at least 200 units (residential projects).

Shorter APF time limits encourage developers to wait until they are ready, or close to ready, to move ahead before seeking preliminary plan approval. This makes the limited amount of development capacity more available, since less of it is tied up by inactive development projects. The Planning Board believes that greater availability of development capacity is at least a partial compensation for instituting a countywide impact tax. *Recommendation 5* below is made in that same spirit.

Recommendation 5: Discount the Pipeline of Approved Development in Selected Areas

Because much of the pipeline of approved development will not be constructed (as preliminary plans expire before construction begins), publicly-funded development capacity is being reserved by development projects that will not use it. At the same time, the County has increasing demand for development capacity as the development economy improves.

In the past several AGP Policy Elements, several options for addressing this issue have been reviewed in detail. In the 1995-1997 AGP Policy Element, the Planning Board proposed allowing the transfer of development capacity from one project to another. This would have allowed already approved, inactive projects to sell their approval to not-yet-approved projects in the same policy area. The idea generated significant interest, but there was concern that creating a market for APF approvals might confer additional rights to the purchasers. A policy of allowing transferable development capacity was added to the AGP for the Silver Spring CBD only, but that was chiefly to provide owners of empty, obsolete structures encouragement to demolish them.

For the 1997-1999 AGP, the Planning Board proposed, as an alternative to pay-and-go, discounting the pipeline based upon expected expirations in 2001. Because 1989 is the year the twelve-year APF time limit went into effect, the year 2001 will be the first year that expirations occur. The amount of development that will expire will be significant, although smaller than expected in 1997 due to the improving commercial market.

The Planning Board continues to believe that the pipeline contains a large reserve of unused development capacity that could be safely tapped to allow desired development to move forward. The Planning Board has developed new (and not-so-new) alternatives for consideration this year, chief among them are: (1) using the smaller of the five-year forecast or the pipeline to determine net remaining capacities for County growth areas, (2) discounting the pipeline based upon market conditions, so that additional capacity is available when the economy slows, and less available as the pace of growth increases, and (3) a continuous discount based upon future expirations.

The Planning Board strongly recommends that the pipeline be discounted. The Planning Board felt that all three options should be included in the Final Draft AGP Policy Element for public discussion. The Planning Board will provide the County Council with a final recommendation on its preferred method of discounting prior to the Council's AGP public hearing.

The Planning Board recommends that any discount only be applied in policy areas where the County wants to encourage growth and that are well-served by transit. These are policy areas within the Beltway, along the I-270 Corridor up to Shady Grove, and Kensington/Wheaton; that is, policy areas along Metro's Red Line, which the Planning Board has dubbed "Red Line Policy Areas." They are Bethesda-Chevy Chase, Silver Spring-Takoma Park, Kensington/ Wheaton, North Bethesda, Derwood, R&D Village, Rockville and Gaithersburg, as well as the Metro station policy areas contained in these policy areas: Bethesda CBD, Glenmont, Grosvenor, Friendship Heights, Shady Grove, Silver Spring CBD, Twinbrook, and White Flint. Limiting the discount to certain areas also limits the possibility that cumulative differences between actual and forecast growth will have a large countywide impact.

More importantly, the Planning Board chose these areas with the same rationale that led the Planning Board to suggest in 1997 that pay-and-go be limited to "growth areas" such as the I-270 Corridor and Metro station policy areas. The Planning Board continues to believe this is an appropriate restriction for the application of additional development flexibility.

In the other policy areas, the pipeline would continue to be used to determine net remaining capacities. These areas are: Aspen Hill, Clarksburg, Cloverly, Damascus, Fairland/White Oak, all three Germantown Policy Areas, Montgomery Village/Airpark, North Potomac, Olney, and Potomac.

Discount Option 1: Using the smaller of the five-year forecast or the pipeline to determine net remaining capacities for County growth areas.

Today, the net remaining capacity (amount of new development that can be approved) is calculated by subtracting the pipeline of approved development from the net staging ceiling. In Silver Spring CBD, for example, the calculation is the following for jobs:

Net Staging Ceiling:	6,340	jobs
Minus Pipeline of Approved Development:	- 4,446	jobs
Equals Net Remaining Capacity:	1,894	jobs

The five-year forecast for the jobs for the Silver Spring CBD is 3,642 jobs. This proposal would replace the pipeline of approved development in the above equation with the five year forecast:

Net Staging Ceiling:	6,340	jobs
Minus Five Year Forecast:	- 3,642	jobs
Equals Net Remaining Capacity:	2,698	jobs

In this example, Silver Spring CBD's net remaining capacity – or amount of new development that could be approved – would increase by 804 jobs.

As the Planning Board envisions it, the forecasts would be adopted along with staging ceilings in each AGP Ceiling Element. After these ceilings are adopted, the Planning Board may approve new development up to the staging ceiling during that fiscal year. Based upon approvals throughout the year, the forecasts would be updated annually to reflect any increases in expected development activity for the five year period, and adopted along with new staging ceilings for the next fiscal year.

There are currently situations where the five year forecast exceeds the current pipeline. This reflects the fact that in some areas, the forecast is expecting new approvals to produce new construction in the next five years. The Planning Board is recommending that in the cases where the forecast exceeds the pipeline, the pipeline number would be used.

A positive aspect of this approach is that it mirrors what is currently done for the school test. The school test compares expected school capacity with forecast enrollment (four years into the future) to determine adequacy. This is very much the same approach, but applied to transportation.

The forecasts represent the County's best estimate of future development activity, but since we does not have a crystal ball, actual activity may well be different than what is forecast. Given the relatively short time frame, a large difference between forecast and actual development in any one policy area is unlikely, although it is possible that small differences in every policy area could add up.

Tables (1) and (2) showing how this approach would effect the jobs and housing net remaining capacities in each area are on the following pages.

Table 1
Effect of Using the Five-Year Forecast
To Determine Net Remaining Capacities
in Certain Areas
JOBS

Using the 5-Year Forecast to Discount Pipeline "Red Line Policy Areas" and "Other Policy Areas"

JOBS

	Current AGP Test						
	Net Ceiling	Pipeline	Net Remaining	5 Year Forecast	Net Ceiling Minus Forecast	Change in Net Remaining Capacities	Notes
moratorium in bold	A	B	C=A-B	D	E=A-D	E-C	
"Red Line Policy Areas"							
Bethesda CBD	6,920	6,873	47	2,672	4,248	4,201	
Bethesda/Chevy Chase	1,316	639	677	1,281	35	0	Forecast greater than pipeline so pipeline used.
Derwood	1,893	4,190	(2,297)	2,085	(192)	2,105	
Friendship/Heights	4,831	4,820	11	3,101	1,730	1,719	
Gaithersburg City	11,066	16,749	(5,683)	4,917	6,149	11,832	Municipalities are unaffected by AGP
Glenmont	200	0	200	8	192	0	Forecast greater than pipeline so pipeline used.
Grosvenor	80	0	80	2	78	0	Forecast greater than pipeline so pipeline used.
Kensington/Wheaton	3,052	352	2,700	278	2,774	74	
North Bethesda	5,349	4,932	417	3,790	1,559	1,142	
R & D Village	15,674	16,729	(1,055)	6,003	9,671	10,726	
Rockville City	7,652	25,991	(18,339)	5,800	1,852	20,191	Municipalities are unaffected by AGP
Shady Grove	998	0	998	92	906	0	Forecast greater than pipeline so pipeline used.
Silver Spring CBD	6,340	4,446	1,894	3,642	2,698	804	
Silver Spring/Takoma Park	1,524	959	565	469	1,055	490	
Twinbrook	971	0	971	139	832	0	Forecast greater than pipeline so pipeline used.
Wheaton CBD	2,763	129	2,634	318	2,445	0	Forecast greater than pipeline so pipeline used.
White Flint	3,172	187	2,985	1,347	1,825	0	Forecast greater than pipeline so pipeline used.
			Total including Rockville and Gaithersburg:			53,285	
Total:			Total not including Rockville and Gaithersburg:			21,262	
Other Policy Areas							
Aspen Hill	153	44	109	66	87	0	Not a "Red Line Community" so net remaining capacity unchanged.
Clarksburg	3,999	4,774	(775)	869	3,130	0	"
Cloverly	345	195	150	55	290	0	"
Damascus	156	174	(18)	26	130	0	"
Fairland/White Oak	(2,883)	5,767	(8,650)	2,844	(5,727)	0	"
Germantown East	15,487	14,526	961	4,020	11,467	0	"
Germantown Town Center	7,062	4,087	2,975	1,605	5,457	0	"
Germantown West	15,928	14,145	1,783	3,081	12,847	0	"
Montgomery Village/Airpark	1,090	3,100	(2,010)	806	284	0	"
North Potomac	125	30	95	94	31	0	"
Olney	2,237	273	1,964	83	2,154	0	"
Potomac	2,236	439	1,797	186	2,050	0	"
					Total:	0	

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Table 2
Effect of Using the Five-Year Forecast
To Determine Net Remaining Capacities
in Certain Areas
HOUSING

Using the 5-Year Forecast to Discount Pipeline "Red Line Policy Areas" and "Other Policy Areas"

HOUSING

	Current AGP Test: Net Ceiling	Current AGP Test: Pipeline	Current AGP Test: Net Remaining (NRC)	5 Year Forecast	Net Ceiling Minus Forecast	Change in Net Remaining Capacities	Notes
	A	B	C	D	E=A-D	E-C	
"Red Line Policy Areas"							
Bethesda CBD	3,223	614	2,609	555	2,668	59	
Bethesda/Chevy Chase	6,523	554	5,969	255	6,268	299	
Derwood	907	32	875	195	712	0	Forecast greater than pipeline so pipeline used.
Friendship/Heights	1,205	1,055	150	100	1,105	955	
Gaithersburg City	989	2,859	(1,870)	1,585	(596)	0	Municipalities unaffected by AGP
Glenmont	632	132	500	0	632	132	
Grosvenor	1400	0	1,400	350	1,050	0	Forecast greater than pipeline so pipeline used.
Kensington/Wheaton	3,231	492	2,739	250	2,981	242	
North Bethesda	1,790	425	1,365	450	1,340	0	Forecast greater than pipeline so pipeline used.
R & D Village	1,929	1,497	432	1,100	829	397	
Rockville City	672	3,988	(3,316)	1,300	(628)	2,688	Municipalities are unaffected by AGP
Shady Grove	500	0	500	300	200	0	Forecast greater than pipeline so pipeline used.
Silver Spring CBD	6,123	983	5,140	60	6,063	923	
Silver Spring/Takoma Park	2,419	59	2,360	70	2,349	0	Forecast greater than pipeline so pipeline used.
Twinbrook	300	0	300	0	300	0	Forecast equals pipeline.
Wheaton CBD	1,523	14	1,509	0	1,523	14	
White Flint	1,700	1,012	688	500	1,200	512	
				Total including Rockville and Gaithersburg:		6,221	
Total:				Total not including Rockville and Gaithersburg:		3,533	
Other Policy Areas							
Aspen Hill	(4,605)	2,180	(6,785)	950	(5,555)	0	Not a "Red Line Community" so net remaining capacity unchanged.
Clarksburg	180	1,560	(1,380)	1,800	(1,620)	0	"
Cloverly	1,683	415	1,268	325	1,358	0	"
Damascus	(848)	475	(1,323)	220	(1,068)	0	"
Fairland/White Oak	(2,532)	2,071	(4,603)	1,265	(3,797)	0	"
Germantown East	5,643	2,718	2,925	1,430	4,213	0	"
Germantown Town Center	1,849	640	1,209	500	1,349	0	"
Germantown West	6,020	5,780	240	2,840	3,180	0	"
Montgomery Village/Airpark	(4,843)	354	(5,197)	125	(4,968)	0	
North Potomac	(403)	938	(1,341)	385	(788)	0	
Olney	1,902	1,736	166	835	1,067	0	
Potomac	2,084	847	1,237	590	1,494	0	
					Total:	0	

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Discount Option 2: Discount Based Upon Market Conditions

This method would discount the pipeline more when development activity is slow and less when development activity is rapid. The discount would be based upon a five-year rolling average of approval activity. Although subdivision approvals increase and decrease in individual years irrespective of market conditions, when the five-year rolling average is used, subdivision approval activity is a very good indicator of future completion activity.

When the amount of a pipeline discount is tied to the pace of subdivision approval activity, one can automatically reduce the discount when economic conditions improve (and the likelihood increases that pipeline projects will move to completion) and automatically increase the discount when economic conditions decline, thereby providing more capacity for new approvals.

A possible scenario is to vary the discount between zero and 30 percent based upon average approval activity in the past five years. A discount of thirty percent would apply when the 5-year average of development approval activity is at or below its historic trough (in the case of housing: 2,500 housing units; in the case of jobs, 2 million square feet). The zero percent discount would apply when the 5-year average of development approval activity is at or above its historic peak of 10,000 housing units and 5.0 million square feet.

Table 3 shows a possible discount schedule. The charts below show the effect of this approach on today's pipeline. Because the five-year rolling average for housing approvals is 3,240 (which is between 3,000 and 3,500), the discount for FY1999 would be 26 percent for housing. The five-year rolling average for non-residential development is 3,017, which is a discount of 15 percent.

As with all of the Planning Board's discount proposals, the discount would be applied only in "Red Line Policy Areas." The affect on each of the Red Line policy areas is shown in the Table 4. None of the policy areas currently in moratorium for housing come out of moratorium. The jobs discount brings some policy areas out of moratorium (or effective moratorium): R&D Village, Bethesda CBD, and Friendship Heights.

A drawback to this approach is that there is no data to support the assertion that the discount should vary between zero and thirty percent, and not, for example, zero and twenty percent. That's because there is no data telling us the percentage of approved projects that do not move to completion. Since a few small minority of approved projects have expired yet, most theoretically could still be constructed. However, we do know how much development is set to expire in future years, and we also know how much development, in total, is expected to be constructed. Subtracting the completions forecast from expected expirations could yield a useful discount range. If there is interest in this approach, staff would investigate and the Planning Board would recommend an appropriate discount range.

Table 3
Discount Based Upon Market Conditions
Possible Discount Schedule

Housing

5-year Average of Approvals is...			Discount is ___%
0	to	2,500	30%
2,500	to	3,000	28
3,000	to	3,500	26
3,500	to	4,000	24
4,000	to	4,500	22
4,500	to	5,000	20
5,000	to	5,500	18
5,500	to	6,000	16
6,000	to	6,500	14
6,500	to	7,000	12
7,000	to	7,500	10
7,500	to	8,000	8
8,000	to	8,500	6
8,500	to	9,000	4
9,000	to	9,500	2
9,500	and	above	0

(in units)

Jobs

5-year Average of Approvals is...			Discount is ___%
0	to	2.0	30%
2.0	to	2.5	25%
2.5	to	3.0	20%
3.0	to	3.5	15%
3.5	to	4.0	10%
4.0	to	4.5	5%
4.5	to	5.0	0%

(in millions of square feet)

Table 4

Effect of Discount Based Upon Market Conditions

Using "Possible Discount Schedule" from Table 3

JOBS

Policy Area	Jobs Ceiling A	Pipeline B	Remaining Capacity C=A-B	Remaining Capacity 15% off	Difference in Capacity
R & D Village	15,674	16,729	-1,055	1,454	2,509
Bethesda CBD	6,920	6,873	47	1,078	1,031
North Bethesda	5,349	4,932	417	1,157	740
Friendship Heights	4,831	4,820	11	734	723
Silver Spring CBD	6,340	4,446	1,894	2,561	667
Derwood	1,893	4,190	-2,297	-1,669	629
Silver Spring/Takoma Park	1,524	959	565	709	144
Bethesda/Chevy Chase	1,316	498	818	893	75
Kensington/Wheaton	3,052	352	2,700	2,753	53
White Flint	3,172	187	2,985	3,013	28
Wheaton CBD	2,763	129	2,634	2,653	19
Glenmont	200	0	200	200	0
Twinbrook	971	0	971	971	0
Shady Grove	998	0	998	998	0
Grosvenor	80	0	80	80	0
Total Change:					6,617

HOUSING

Policy Area	Jobs Ceiling A	Pipeline B	Remaining Capacity C=A-B	Remaining Capacity 26% off	Difference in Capacity
R & D Village	1,929	1,497	432	821	389
Friendship Heights	1,205	1,055	150	424	274
White Flint	1,700	1,012	688	951	263
Silver Spring CBD	6,123	983	5,140	5,396	256
Bethesda CBD	3,223	614	2,609	2,769	160
Bethesda/Chevy Chase	6,523	554	5,969	6,113	144
Kensington/Wheaton	3,231	492	2,739	2,867	128
North Bethesda	1,790	425	1,365	1,476	111
Glenmont	632	132	500	534	34
Silver Spring/Takoma Park	2,419	59	2,360	2,375	15
Derwood	907	32	875	883	8
Wheaton CBD	1,523	14	1,509	1,513	4
Twinbrook	300	0	300	300	0
Shady Grove	500	0	500	500	0
Grosvenor	1,400	0	1,400	1,400	0
Total Change:					1,786

Discount Option 3: Discount continuously based upon future expirations.

Two years ago, as an alternative to "pay-and-go," the Planning Board recommended discounting the pipeline based upon expected subdivision expirations in the year 2001. Because much of the residential pipeline does not expire, the main effect of this would be to provide additional development capacity for jobs. Since the pace of non-residential development has picked up since then and some projects set to expire in 2001 are now moving forward, the amount of jobs capacity that would now be made available is smaller.

The Planning Board is offering a new "wrinkle" on the Board's previous approach. The Board's recommendation was for a one-time discount based on year 2001 approvals only. If some projects that were expected to expire were actually constructed, the extra development capacity could be "made up" by expirations in future years.

An alternative would be to discount *annually* based upon expected expirations several years (for example, three) into the future. That is, for FY2000, the pipeline would be discounted by expected expirations in the years by 2003. For FY2001, the pipeline would be discounted by expected expirations in 2004. Because the capacity "created" by discounting future expirations would always be applied to deficits first, any overestimate of expirations in one year would be made up for by future expirations.

Again, if six year APF time limits become the standard for all but larger projects, the need for discounting will be reduced over time. "Retiring" the discount could be automatically achieved by applying the discount only to projects approved prior to 2000.

The Planning Board strongly recommends that the pipeline be discounted. The Planning Board feels that all three options should be included in the Final Draft AGP Policy Element for public discussion. The Planning Board will provide the County Council with a final recommendation on its preferred method of discounting prior to the Council's AGP public hearing.

Recommendation 6: Within Transportation Management Districts, Require Participation by Existing Employers.

In some policy areas, improvement in the non-driver mode share is a critical component to building out the land use envisioned in the master plan without creating unacceptable levels of congestion. North Bethesda and Bethesda CBD are two examples. The County has created, or is creating, Transportation Management Organizations (TMOs) to pursue strategies to increase the non-driver mode share in these areas. The policy has been to require participation in Transportation Management Organizations by employers located in new development, but participation by employers in existing development is voluntary.

The challenge of getting people to switch from driving alone to work to other modes of transportation is a daunting one in the best of circumstances. Since the overwhelming percentage of employers in any transportation management district are those in existing buildings, the challenge of achieving mode share goals without significant participation by these employers is even greater.

In North Bethesda, the goal is to reduce the single-occupant vehicle mode share from 78 to 74 percent. The TMD survey showed a one percentage point decline in 1996 and a 1.3 percentage point decline in 1997. County and M-NCPPC transportation staff note that each percentage point in improvement is significant and not easily achieved. In the Bethesda CBD, the goal for Stage I is a non-driver mode share of 32 percent. The current non-driver mode share is 27 percent.

The Planning Board proposes requiring all firms with 50 or more employees within the boundaries of a Transportation Management District to participate in the TMO. The employers would be required to do the following: (1) turn in a plan for meeting master plan mode share goals; (2) make a reasonable effort to achieve those goals; and (3) participate in the monitoring efforts of the TMO (collect and return annual surveys, etc.)

The Planning Board's recommendation (below) that pay-and-go revenues in transportation management districts be allocated to TMOs may alleviate the need to charge existing employers a fee to support TMO activities.

Recommendation 7: Local Area Transportation Review for large projects should test only the first six years of projects development. Development beyond six years would either pay a fee determined at the time of the initial approval or undergo a second review at the end of the first six years.

This recommendation is explained in full in the first chapter of this report (Issue 1), "Accounting for Traffic Growth in the Development Review Process." The recommendation is the result of an extensive comparison of traffic forecasts contained in the traffic studies prepared for Local Area Transportation Review with actual conditions several years later. This recommendation is consistent with *Recommendation 4*, which envisions setting APF time limits at the time of subdivision, with the standard APF time limit being 6 years, and longer time limits available to projects that (a) consist of more than one building and (b) are at least 150,000 square feet or 200 housing units in size. For these larger projects, at the end of six years, the developer may either prepare another traffic study based on current conditions at the time, or pay a predetermined tax to cover future transportation improvements.

Recommendation 8: Revise the Alternative Review Procedure for Expedited Non-Residential Development Approval ("Pay-and-Go")

The Planning Board's recommendations for revising pay-and-go are substantial and reflect a desire to retain or add development approval flexibility in the areas of the County where growth is encouraged while increasing the revenue stream for transportation infrastructure. The Planning Board's full review of pay-and-go is included as Appendix 3b. The Planning Board's recommendations are the following:

1. *Policy areas in moratorium because of existing non-residential development should not be eligible for pay-and-go approvals.* These are the policy areas least able to accept additional development and the additional traffic it generates. In these areas, traffic congestion is currently unacceptable – not in a theoretical future, but right now. Since these areas have been eligible for pay-and-go for over a year, landowners that have been held back by previous moratoria have had an opportunity to move ahead. Currently, the only policy area in moratorium because of existing non-residential development is Fairland/White Oak.

2. *Only "growth areas" of the County well-served by transit should be eligible for pay-and-go.* The Planning Board recommends that the procedure, which allows development to proceed in moratorium areas, should be limited to areas that have available alternatives to the private automobile; that is, a relatively high level of transit service. As mentioned earlier, the Planning Board has named these policy areas "Red Line Policy Areas" because they follow both branches of Metro's Red Line, from Silver Spring to Glenmont on the eastern leg and from Friendship Heights to Shady Grove on the western leg. They are Bethesda-Chevy Chase, Silver Spring-Takoma Park, Kensington/Wheaton, North Bethesda, Derwood, R&D Village, Rockville, and Gaithersburg; and Bethesda CBD, Glenmont, Grosvenor, Friendship Heights, Shady Grove, Silver Spring CBD, Twinbrook, and White Flint.

   Of these areas, perhaps some might question whether the three Kensington/Wheaton policy areas are "growth areas." The Planning Board notes that there is currently a surplus of development capacity in Kensington/Wheaton and Wheaton CBD (which means that it is highly unlikely pay-and-go would be used for staging ceiling). Wheaton CBD may be defined as a growth area in the sense that the County is encouraging redevelopment efforts there. For Glenmont, the Planning Board notes that the Glenmont Sector Plan contains a staging element which would prevent pay-and-go from being used to approve development over current staging ceilings until Georgia Avenue - Randolph Road intersection improvement is made.

3. *Generally increase the Expedited Development Approval Excise Tax, but vary the tax by policy area to favor areas best served by transit.* The Planning Board recommends that the pay-and-go tax be graduated to favor development near transit. The pay-and-go tax would be lowest in the policy areas with the highest transit usage and level of service, and highest in the areas with the lowest transit usage and level of service. The Annual Growth Policy already varies LATR congestion standards by transit usage and level of service, so these numbers are already known and used.

   There are a number of ways this might be accomplished. The first step would be to determine the basis for calculating the pay-and-go tax. The Planning Board favors basing transportation taxes on the cost of transportation improvements to be funded. Since the impact tax calculation already identifies planned improvements and calculates their cost, this information could be used to calculate the pay-and-go tax as well.

   Since the Planning Board is recommending that pay-and-go approvals be limited to "Red Line Policy Areas," the pay-and-go tax could be based upon the total cost of transportation improvements in those communities divided among the housing units and non-residential buildings expected to be built. Pay-and-go approvals in the policy area(s) with the lowest levels of transit service might pay 50 percent of the pro-rata cost of that infrastructure, while pay-and-go approvals in policy areas with the highest levels of transit service might pay 5 or 10 percent of the pro-rata cost of infrastructure.

   If the countywide impact tax were to be set at 50 percent of the pro-rata cost of new transportation infrastructure countywide, and the pay-and-go tax in "Red Line" policy areas with the lowest transit level of service was set at 50 percent of the pro-rata cost of transportation infrastructure in Red Line Policy Areas, pay-and-go approvals in those areas would pay taxes totaling approximately 100 percent of the pro-rata cost of their transportation infrastructure. Appendix 3c contains material relating to calculating the cost of transportation infrastructure.

4. *Clarify that building permits must be received within four years of preliminary plan approval.* Currently, the pay-and-go language requires developers to record in two years and to obtain building permits no less than two years after recordation. At first glance, this allows developers four years from approval, but this is only if he takes the full two years to record. Requirements to record within a certain time limit are specified in the subdivision ordinance, so they do not need to be repeated. The Planning Board believes that restating this clause to allow developers four years from subdivision approval, rather than two years from recordation, makes more sense.

5. *Direct pay-and-go revenues received in transportation management districts to the TMO serving that district, or toward other master-planned transportation improvements in that district.* Otherwise, continue with present method of allocating development excise tax revenues. Although there is no legislative requirement that the County Council use Development Approval Payment and Expedited Development Approval Excise Tax revenues to fund transportation improvements in particular locations, the Council has thus far used these revenues to fund transportation improvements in the same policy areas where significant development has been approved under these procedures. The Planning Board does not believe a closer nexus (such as requiring all revenues to be spent in the same policy area where they were collected) is feasible since there will likely not be sufficient revenues in some policy areas to make improvements.

   However, the Planning Board believes that pay-and-go approvals within transportation management districts are an exception, since even the most modest contribution can be used by a transportation management organization. Therefore, the Planning Board is recommending that revenues from pay-and-go approvals with transportation management districts be directed to the TMO serving that district. As alternatives, the Planning Board would not oppose pooling the revenues from pay-and-go approvals in transportation management districts among TMOs, or using the funds for transportation infrastructure in a transportation management district, if such an improvement is identified.

6. *Continue to require prepayment of 10 percent of the Expedited Development Approval Excise Tax.* The Planning Board believes this pre-payment requirement is a useful incentive to help restrict pay-and-go approvals to development projects ready to move to construction.

7. *Eliminate exemptions for first 1,200 square feet and exemptions for educational institutions.* The Planning Board believes that the exemption for the first 1,200 square feet was included in the original pay-and-go legislation primarily to avoid discouraging developers from constructing smaller, and presumably more affordable housing units. Since residential development is no longer approvable under pay-and-go, the effect has been to provide a tax break to small non-residential development, of which there have been several approvals. The Planning Board does not see the need for this exemption and suggests it be removed. Although the Planning Board is suggesting that residential development be permitted to use pay-and-go in Metro station policy areas, the Planning Board notes that most of the residential units that would be approved in these areas would near or under 1,200 square feet. Since the Planning Board is also recommending that the pay-and-go tax be at its lowest in Metro station policy areas, the Planning Board expects that the tax rate in these areas would not significantly affect the affordability of these units.

The Planning Board is also concerned about the exemptions for "an accredited college or university and used exclusively for instruction, instruction-related research, and administration of higher-education program," and "a building owned by a non-profit organization that is exempt from federal income taxes under Section 501(c)(3) of the Internal Revenue Code, used primarily for educational or religious purposes, and not used for any substantial commercial activity." Churches are already exempt from the requirements of the adequate public facilities ordinance, so an exemption for houses of worship is not necessary. The Planning Board's concern is that the effect of these exemptions is to exempt these institutions from the adequate public facility ordinance. As worthy and desirable as these institutions may be, the Planning Board is not sure that this was intended, particularly as the transportation impacts of these institutions can be substantial.

8. *Eliminate the credit of the pay-and-go tax against the impact tax.* The development impact tax is new development's share of the cost of new transportation infrastructure needed to support it. Pay-and-go revenues should not be credited against the impact tax because what a developer "purchases" with the pay-and-go tax is the ability to move ahead sooner than he otherwise would. If the pay-and-go tax were credited against the impact tax (or vice versa), it would undermine the goal behind varying the pay-and-go tax to encourage development near transit.

9. *In Metro Station policy areas where pay-and-go is not available because of sector plan staging constraints, permit the use of pay-and-go for additions that will generate fewer than 50 trips.* At the Planning Board's worksession on moving to Stage II in Bethesda CBD the Bethesda Chamber of Commerce requested that the Planning Board consider allowing pay-and-go to be used in Bethesda for additions to existing buildings so as not to, in effect, place the needs of new development ahead of existing employers. The Planning Board indicated that it would consider the idea. The Economic Advisory Committee, which has been meeting with the Planning Board over the past few months, suggested allowing additions up to 25,000 square feet to use pay-and-go in areas where pay-and-go was not otherwise available due to master plan staging (e.g., Bethesda CBD). The Planning Board notes that Council staff has indicated that it plans to propose initiatives which would allow Bethesda CBD to move to Stage II. If this were to occur, the amendment to pay-and-go concerning additions would not be needed. Irrespective of the outcome of this particular case, the Planning Board believes that it is important to provide flexibility to existing buildings that may need to add space to accommodate new uses. The Board suggests that pay-and-go approvals be limited to additions that would be no larger than the current definition of "significantly-sized development;" that it, additions that generate fewer than 50 trips (which is about 22,500 square feet of office space).

10. *Allow residential development to use pay-and-go in Metro Station policy areas; eliminate the Alternative Review Procedure for Metro Station Policy Areas.* Residential development in Metro station areas is a key component in reducing trip lengths, boosting transit ridership, and creating lively "24-hour" urban environments. Although in most policy areas there is a substantial amount housing planned, and a large amount of development capacity available for housing, residential development in these areas has been modest compared to the amount of commercial development. While there are generally no staging ceiling problems for housing in Metro station policy areas, there may be Local Area Transportation Review difficulties for these projects. The AGP currently contains an Alternative Review Procedure for Metro station Policy Areas which permits both residential and non-residential development to meet its LATR obligations by paying the Development Approval Payment. The Development Approval Payment is higher than what the Planning Board envisions for the pay-and-go tax for Metro station policy areas. The Planning Board does not see a reason to favor non-residential construction in Metro station areas, and suggests that residential development be permitted to use pay-and-go in Metro station policy areas only, and that a pay-and-go tax for residential development in Metro station policy areas, comparable to the pay-and-go tax for non-residential development in Metro station policy areas, be developed.

Concluding Note

The Planning Board recognizes that these recommendations are signficant. Over the several months between the release of this report and the Council public hearing, the staff of the Montgomery County Department of Park and Planning will identify opportunities to review these recomendations with interested groups and individuals. The Board looks forward to the working with the Council on these important issues.

Appendix 1

Development Trends

Montgomery County's housing and non-residential markets are both very healthy in 1999. The County is enjoying record home sales for the second year in a row and occupancy rates for commercial space are strong, to the point that there are shortages for some types of space, particularly Class A office space.

As a result, both residential and commercial development are on the upswing. Residential building permits were up 50 percent in 1998 (housing completion data for 1998 are not yet available from the tax assessor's office) to just under 4,400 permits, the highest one-year total this decade. On the commercial side, approximately 1.8 million square feet of office space is under construction for completion in 1999, up from about 400,000 square feet in 1998.

Both of these trends are fueled by strong job growth that began in 1996 and is continuing. The most recently-available job growth data are the strongest seen since the late 1980s. Job growth creates demand for both new housing and new commercial construction, since low residential and commercial vacancy rates leave little room for expansion without new construction. For this reason, both residential and commercial construction should continue to be strong for at least another two years.

Residential development in 1999 and 2000 will be at a similar pace as 1998 — in the 4,000 to 4,500-unit range. The wildcard for residential completion totals is multifamily, which can skew annual totals up and down depending on when particular buildings come on line. The number of home sales may moderate as pent-up demand for move-up housing is eased and if interest rates rise slightly as expected. However, home price increases, currently concentrated in particularly sought-after neighborhoods, may spread.

Commercial development has a longer lead time and is therefore slower to react to market changes. We are only now seeing the pace of construction increase in response to the improved job growth beginning in 1996 and the tight office market that began in 1997. Some commercial projects now under way will not be complete until 2000 or 2001. At least 5 million square feet of office space will be completed in the next three years, and that only includes projects with an announced completion date as of February 1999.

What are the implications for the Annual Growth Policy? Until recently, the slow pace of development in the 1990s has meant that fewer and fewer policy areas were in moratorium. In September 1991, there were 10 policy areas in moratorium for housing and 11 in moratorium for jobs (not counting Rockville and Gaithersburg). Seven years later, there were six in moratorium for housing and six in moratorium for jobs.

The recent increases in the pace of development have drawn down available AGP capacity, particularly for jobs. Areas with significant capacity a year or two ago, such as R&D Village, Bethesda CBD, and Friendship Heights, have deficits or extremely small positive job balances. North Bethesda still has significant jobs capacity *on paper*, but there are more commercial projects desiring development capacity – and preparing to come in for approval – than there is jobs capacity available.

Montgomery County is at the expansion point in the development cycle (which consists of four parts: recovery, expansion, oversupply, and recession). At this point, there is high demand for commercial space and comparatively few projects under construction. This also means that demand from developers for AGP capacity is peaking and will continue to be high until the next period of oversupply occurs. Of course, not all projects approved during this period of "high expectation" will actually be built. There are still numerous projects in the pipeline of approved commercial development that were approved in the late 1980s. At current rates of job growth, there is more than a decade of commercial development already approved. At current rates of housing construction, there is eight years of residential development already approved and another eight years' worth in capacity for new approvals.

Much of the discussion of the previous AGP Policy Element (1997-1999) focused on ways to encourage desired development to move forward. Current development trends suggest the emphasis this time will be on how to best manage limited development capacity during a period of high demand for new approvals.

Other Sources of Development Trend Information

The Montgomery County Department of Finance's Economic Indicators report provides an excellent review of the County's economy, including residential and commercial development trends and statistics. The report is available on the web at The Montgomery County Department of Park & Planning, M-NCPPC, recently released its annual update to Economic Forces That Shape Montgomery County, which focuses on job growth, federal government impact, and commercial construction indicators. It is available from the M-NCPPC Research & Technology Center at 301-495-4700 and will be on the web by mid-May at (click on "Montgomery County Planning Board" then "Facts, Figures & Maps" then "Montgomery County Research & Analysis.") Later this spring, the Research & Technology Center will release a report of the results of commercial development industry interviews will also be available. A copy of the Executive Summary is available from the Research & Technology Center now.

Montgomery County Residential Development Trends

Completions	Total	Detached	Townhouse	Multi-family
1993	3,083	1,470	858	755
1994	2,854	1,498	896	460
1995	2,937	1,562	806	569
1996	3,114	1,435	974	705
1997	3,941	1,710	846	1,385
1998	na	na	na	na

percent. Source: M-NCPPC tabulation of State tax assessor's records.

Building Permits	Total	Detached	Townhouse	Multi-family
1991	3,092	1,189	848	1,055
1992	3,564	1,925	1,146	493
1993	3,453	1,928	1,181	344
1994	3,962	2,155	983	824
1995	4,372	1,923	1,237	1,212
1996	3,721	2,064	1,124	533
1997	2,938	1,559	882	497
1998	4,398	1,986	956	1,456

units. Source: M-NCPPC.

Subdivision Approvals	Units Approved
1993	3,139
1994	2,393
1995	4,842
1996	5,052
1997	1,777
1998	2,892

units. Source: M-NCPPC.

Residential Development Capacity	Approved Pipeline	Remaining Capacity
as of July 1, 1993	30,058	22,621
as of July 1, 1994	29,352	35,414
as of July 1, 1995	32,160	35,172
as of July 1, 1996	33,426	36,248
as of July 1, 1997	33,791	33,490
as of July 1, 1998	36,050	35,178
as of March 31, 1999	33,430	33,581

units. Source: M-NCPPC.

Montgomery County Commercial Development Trends

Completions	Total	Office
1991	2,491,070	1,172,686
1992	3,048,690	950,037
1993	1,128,517	576,159
1994	2,738,363	1,715,513
1995	706,422	206,273
1996	1,372,988	236,415
1997	2,134,701	399,508
1998 (through 9/30/98)	1,804,538	451,211

square feet. Source: M-NCPPC tabulation of State Tax Assessor's records

Subdivision Approvals	Total	Office
1991	8,738	6,069
1992	1,038	812
1993	990	808
1994	1,970	1,342
1995	1,892	1,313
1996	2,565	2,237
1997	2,640	1,672
1998	2,648	2,119

thousands of square feet. Source: M-NCPPC.

Commercial Development Capacity	Approved Pipeline	Remaining Capacity
as of July 1, 1993	111,048	29,111
as of July 1, 1994	101,963	48,263
as of July 1, 1995	102,269	43,889
as of July 1, 1996	105,499	41,758
as of July 1, 1997	124,336	36,573
as of July 1, 1998	126,348	31,759
as of March 31, 1999	134,409	24,154

in jobs. A job is equivalent to 225-250 square feet of office and 400 square feet of retail and industrial space. Source: M-NCPPC.

Office Vacancy Rates	All Office	Class A	Class B	Class C
July 1996	10.0	5.8	11.0	19.9
January 1997	8.6	5.4	9.7	15.1
July 1997	8.1	5.3	8.5	13.6
January 1998	7.5	5.1	8.1	14.4
July 1998	6.3	3.6	7.4	13.0
March 1999	5.2	3.5	4.7	13.4

percent. Source: Realty Information Group.

Appendix 2

Transportation Performance Indicators

This report is an initial effort to provide several indicators upon which to judge the performance of the Montgomery County's transportation system and its ability to support development envisioned in master plans and sector plans adopted by the County Council.

M-NCPPC staff has assembled several sets of data specific to Montgomery County that may be useful to policy makers in assessing how well we are doing as a government in providing adequate transportation infrastructure to sustain or enhance our ability to maintain a desired and acceptable standard of "livability" within Montgomery County. The data is presented for information; efforts have not been made to draw conclusions, or compare the data to any standards.

Initial Transportation Performance Indicators for Montgomery County

The following data are suggested as initial indicators of the performance of our transportation system:

1. Metrorail Weekday Boarding by Station (Table 1)
   A desired trend would be increasing Metro ridership over time.

2. Bus Ridership - Average Weekday Passengers (Table 2)
   A desired trend would be increasing bus ridership over time.

3. Percentage of Pipeline Development Within or Adjacent to Traffic Zones That Contain Existing (Metro) or Planned Transit Stations , i.e. Generally Within One-Half Mile (Figures 1-3)
   A desired trend would be increased development near existing or planned transit stations.

4. Modal Split, i.e. Percent of Residents that Drive Alone, Use Public Transit, Carpool or Use Other Methods to Get to Work (Figure 4)
   A desired trend would be a decrease in single occupant vehicles, i.e. drive alone.

5. Transportation Management Organizations (TMOs) Established and Participant Base (Table 3)
   A desired trend would be an increase in TMOs and their participant base.

6. Average Auto Occupancy on Roads Crossing the Capital Beltway (I-495) (Table 4) *A desired trend would be increased auto occupancy over time.*

7. Intersections With Critical Lane Volumes (CLVs) Above The Congestion Standard in Each Policy Area (1996-97-98-99 Data) (Policy Area Maps) *A desired trend would be to maintain or reduce the number of intersections in each policy area operating above the congestion standard.*

8. Directional Traffic Volumes During Peak Periods in Selected Locations (Table 5) *A desired trend would be to have more balanced directional volumes, i.e. northbound vs. southbound, eastbound vs. westbound, over time.*

9. Capital Expenditures of the County and State for Transportation Improvements (Tables 6 & 7) *A desired trend would be increased funding related to transportation over time.*

10. Percentage Change in Road Lane Miles Compared to Population and Jobs (Table 8) *A desired trend would be for the percentage change in lane miles to keep pace with the percentage change in population and jobs.*

Possible Future Transportation Performance Indicators

The following data may be available and useful in the future to further evaluate the performance of the County's transportation system. Much of the data will come from the County's Advanced Transportation Management System (ATMS) through an electronic link that will be established in 1999 as part of the Data Acquisition Software and Hardware (DASH) System contract.

a. Total transportation level of service (TTLOS) in each policy area.
b. Texas Transportation Institute (TTI) index localized for Montgomery County only.
c. Travel times in selected corridors.
d. The mix of development County-wide or by groups of policy areas.
e. Average trip lengths.
f. Diurnal distribution of traffic and peak spreading trends.
g. The use of parking and/or congestion pricing to "control/regulate" traffic and use of the transportation system .

Table 1
Metrorail Weekday Boarding by Station

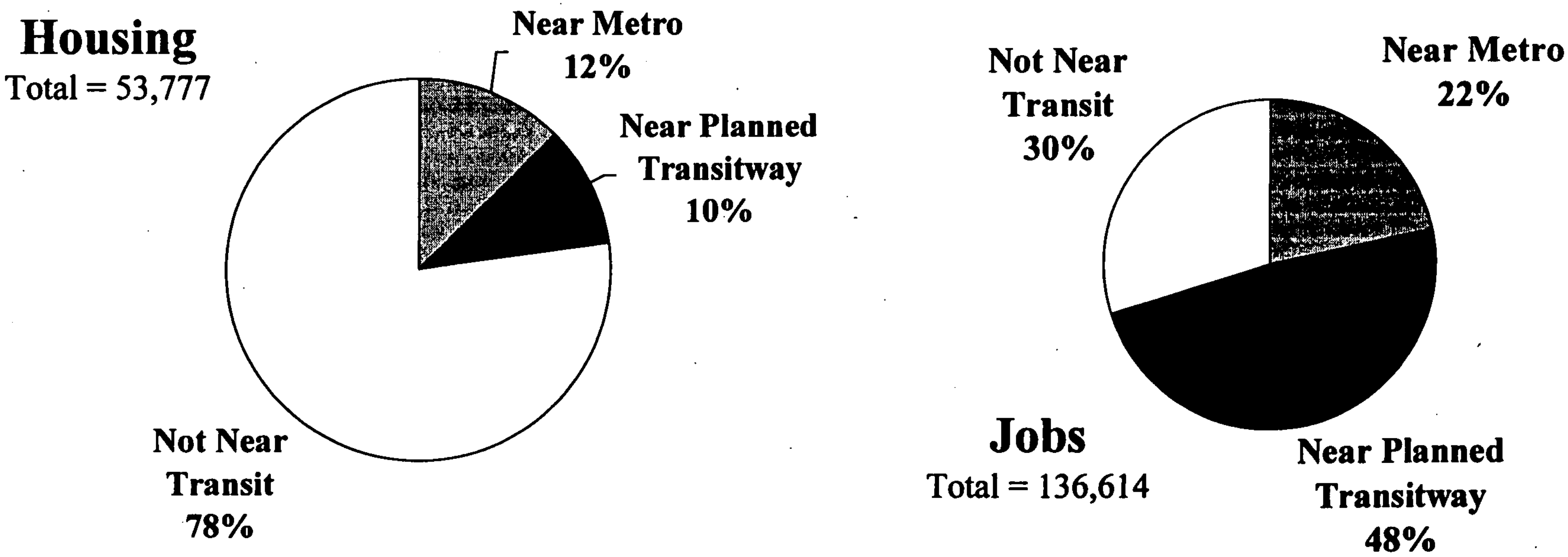
STATION	1980	1985	1990	1995	1998
Bethesda	0	5,011	7,572	7,501	7,889
Forest Glen	0	0	0	1,854	1,850
Friendship Heights	0	5,674	8,268	8,343	8,424
Grosvenor	0	2,618	3,794	3,431	3,510
Medical Center	0	2,715	4,501	3,911	3,859
Rockville	0	2,140	3,944	3,443	3,545
Shady Grove	0	4,050	9,106	9,014	9,065
Silver Spring	16,414	13,445	14,857	11,311	10,579
Takoma	4,809	5,195	6,227	5,204	5,344
Twinbrook	0	2,354	4,515	3,778	3,662
Wheaton	0	0	0	5,508	5,574
White Flint	0	2,199	4,333	3,613	3,662
Total	21,223	45,401	67,117	66,911	66,963

Table 2
Bus Ridership - Average Weekday Passengers

	1980	1985	1990	1995	1998
Metrobus (WMATA)	49,900	37,300	58,600	52,000	48,200
Ride-On		28,000	53,900	58,600	59,000
Total	49,900	65,300	112,500	110,600	107,200

Figure 1

Percentage of Approved Development Near Existing or Planned Transit Stations

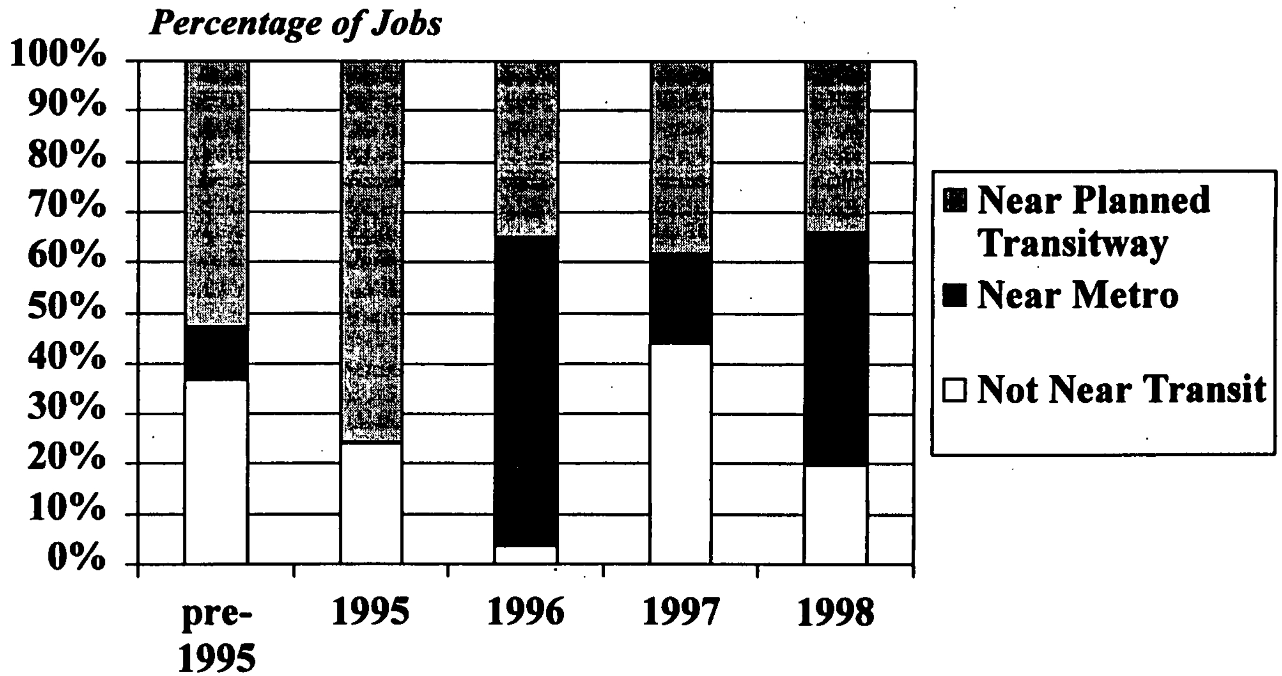


"Near Metro" means approved development is located in a traffic zone that either (1) includes a Metro Station or (2) is adjacent to a traffic zone that includes a Metro station and *development is generally within one-half mile of the station. "Near Planned Transitway" means approved development is is located in a traffic zone that either (1) includes a station in the planned Corridor Cities, North Bethesda, or Bethesda-Silver Spring transitways or (2) is adjacent to a traffic zone that includes a planned transitway station* and *development is generally within one-half mile of the planned station. Source: M-NCPPC Research & Technology Center, as of December 31, 1998.*

Percentage of Approved Jobs Near Existing or Planned Transit Stations

by Year of Approval

Figure 2



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Percentage of Approved Jobs Near Existing or Planned Transit Stations

Figure 3

by Year of Approval

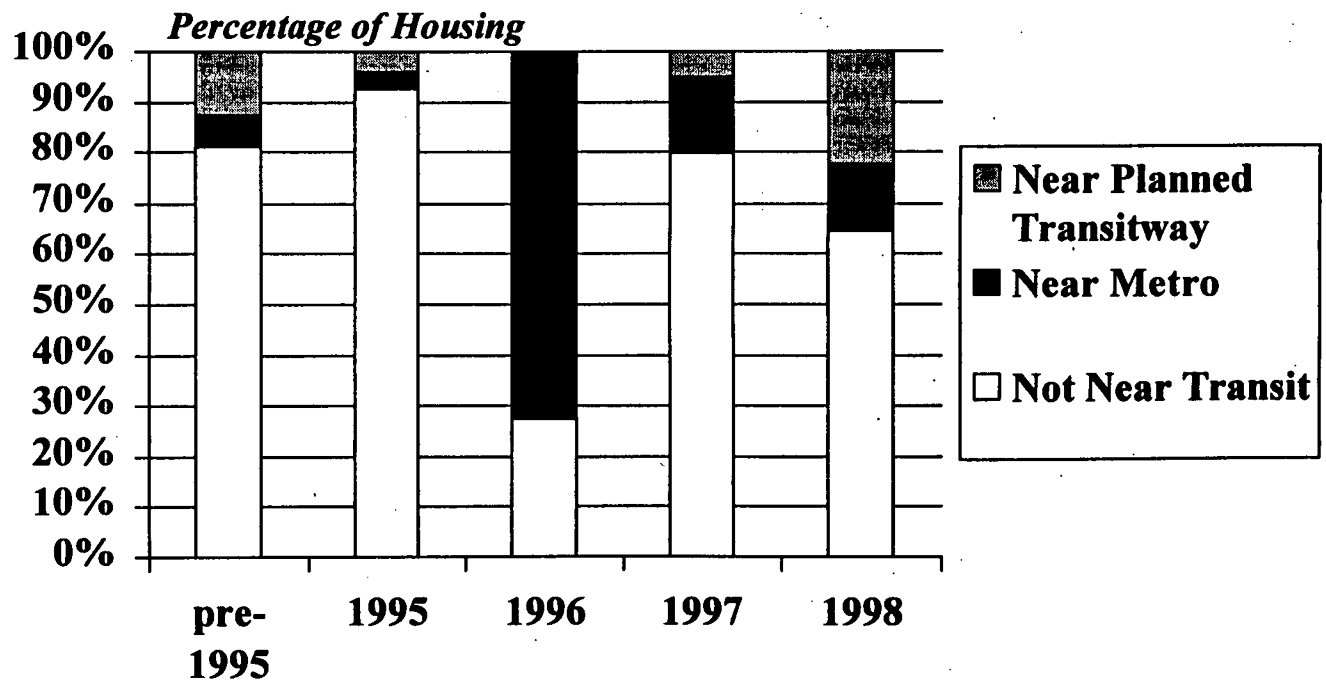

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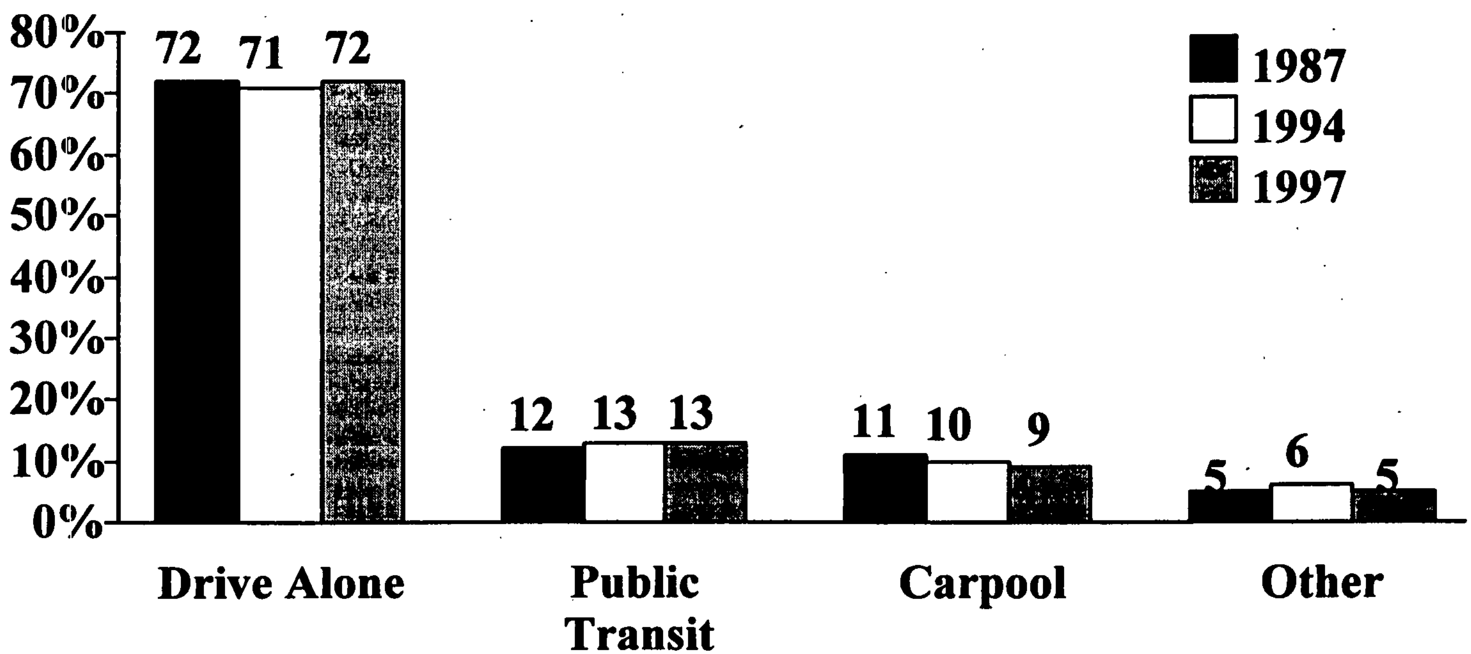
Figure 4

How Montgomery County Residents Get to Work



Source: 1997 Census Update Survey, M-NCPPC Research & Technology Center, April 1999

Data for Figure 2

Percentage of Commercial Pipeline Within or Adjacent to Traffic Zones that contain Existing (Metro) or Planned Transitways

(Generally within one-half mile)

	Number of Jobs	Percent of Jobs
Pre-1995/not near transit	32,824	36.5%
Pre-1995/near Metro	9,549	10.6%
Pre-1995/near planned transit	47,551	52.9%
Total Pre-1995	89,924	100.0%
1995 not near transit	1,445	24.2%
1995/near Metro	19	0.3%
1995/Near planned transit	4,499	75.5%
Total 1995	5,963	100.0%
1996/not near transit	766	3.6%
1996/near Metro	13,212	61.5%
1996/near planned transit	7,512	35.0%
Total 1996	21,490	100.0%
1997/not near transit	2,784	43.9%
1997/near Metro	1,134	17.9%
1997/near planned transit	2,423	38.2%
Total 1997	6,341	100.0%
1998/not near transit	2,489	19.7%
1998/near Metro	5,820	46.2%
1998/near planned transit	4,302	34.1%
Total 1998	12,611	100.0%
All years/not near transit	40,599	29.7%
All years/near Metro	29,728	21.8%
All years/near planned transit	66,287	48.5%
Total pipeline	136,614	100.0%

Source: M-NCPPC Research & Technology Center, April 2, 1999

Planned transitways include Corridor Cities Transitway and North Bethesda Transitway. Includes all approved but not yet constructed development. Includes development approvals through Dec. 31, 1998. Does not include development completed as of Dec. 31, 1997.

Data for Figure 3

Percentage of Residential Pipeline Within or Adjacent to Traffic Zones that contain Existing (Metro) or Planned Transitways

(Generally within one-half mile)

	Single Family Detached	Town House	Multi Family	Total Units	Percent of Units
Pre-1995/not near transit	14,660	7,412	10,034	31,998	81.2%
Pre-1995/near Metro	13	47	2,498	2,558	6.5%
Pre-1995/near planned transit	266	362	4,245	4,873	12.4%
Pre-1995 total	14,939	7,821	16,777	39,429	100.0%
1995/not near transit	1,859	1,101	1,519	4,479	92.6%
1995/near Metro	8	17	132	157	3.2%
1995/near planned transit	116	86	0	202	4.2%
1995/TOTAL	1,983	1,204	1,651	4,838	100.0%
1996/not near transit	427	272	678	1,377	27.5%
1996/near Metro	304	1,266	2,048	3,618	72.4%
1996/near planned transit	4	0	0	4	0.1%
1996/total	735	1,538	2,726	4,999	100.0%
1997/not near transit	540	69	742	1,351	79.6%
1997/near Metro		2	261	263	15.5%
1997/near planned transit		83		83	4.9%
1997/total	540	154	1,003	1,697	100.0%
1998/not near transit	885	6	1,113	2,004	64.6%
1998/near Metro	9	251	150	410	13.2%
1998/near planned transit	0	305	382	687	22.2%
1998/total	894	562	1,645	3,101	100.0%
All years/not near transit	18,371	8,860	14,086	41,209	76.2%
All years/near Metro	334	1,583	5,089	7,006	13.0%
All years/near planned transit	386	836	4,627	5,849	10.8%
Total pipeline	19,091	11,279	23,802	54,064	100.0%

Source: M-NCPPC Research & Technology Center, April 2, 1999

Planned transitways include Corridor Cities Transitway and North Bethesda Transitway. Includes all approved but not yet constructed development. Includes approvals through Dec. 31, 1998. Does not include projects completed as of Dec. 31, 1997.

Table 3. Transportation Management Organizations (TMOs) Established and Participant Base

TMO Location Drive Alone Maximum	Participant Base at Establishment/Date % Drove Alone	Current Participant Level/Date % Drove Alone
Silver Spring CBD 50% (M-NCPPC) 54%	7,551 employees/1988 66% (70%)	8,756 employees/1997 47% (57%)
North Bethesda Workers 61% Multi-family Residents 70%	25,000 employees 1996 77%	30,000 employees 1997 76%
Bethesda CBD 63%	9,804 employees/1995 Established in 1999	NA Est. 73%
Shady Grove Workers 88% Residents 75%	Being established	NA Est. 90%
Friendship Heights 61%	Being established	NA Est. 66%

Table 4. Average Auto Occupancy on Roads Crossing the Capital Beltway (I-495) in Montgomery County

ROAD	1992	1995	1998
Geo Wash Pkwy	1.27	1.17	1.12
MacArthur Blvd	1.22	1.19	1.46
Persimmon Tree Road	N/A	N/A	1.17
River Road	1.22	1.19	1.21
Bradley Blvd	N/A	N/A	1.25
Fernwood Road	N/A	N/A	1.30
Old Georgetown Road	1.26	1.22	1.19
Wisconsin Ave	1.15	1.17	1.22
Cedar Lane	1.20	1.18	1.17
Connecticut Ave	1.18	1.14	1.20
Stoneybrook Drive	N/A	N/A	1.27
Linden Lane	1.26	1.22	1.19
Seminary Road	N/A	1.17	1.27
Georgia Ave	1.20	1.18	1.23
Sligo Creek Pkwy	1.18	1.14	1.37
Brunett Ave	1.22	1.22	1.21
Colesville Road	1.23	1.19	1.16
University Blvd	1.24	1.22	1.37
New Hampshire Ave	1.21	1.30	1.23
AVERAGE	1.21	1.20	1.22

This compares with averages at all locations around I-495 of 1.29 in 1992, 1.24 in 1995, and 1.26 in 1998.

Intersections Above Congestion Standard in AGP Policy Areas

Based Upon 1996-1997-1998-1999 Data

The following maps show intersections above the Annual Growth Policy's intersection congestion standard. Intersection congestion standards vary by policy area and are shown on each map and in Table 7 of each adopted AGP.

The methodology used to calculate intersection congestion is called Critical Lane Volume (CLV). CLV is a calculation of the number of "critical lane movements" that can be accommodated through an intersection in a one-hour period. A more detailed description of the CLV methodology is contained in the adopted AGP, and the subject is thoroughly reviewed in the Planning Board's *Local Area Transportation Review Guidelines*, available from M-NCPPC's Transportation Planning Division.

Recent traffic counts are not available for all major intersections in Montgomery County becausesuch an effort would be prohibitively expensive. The traffic count data used as the basis for this analysis has a variety of sources. Traffic counts may be performed by the County or State when a specific intersection is being considered for improvement or when a more comprehensive study of traffic congestion is undertaken. Another major source of traffic count data is traffic studies submitted by applicants for subdivision approval when proposed developments are subject to Local Area Transportation Review. Therefore, this data represents only a portion of the intersections in each policy area that are currently above the congestion standards.

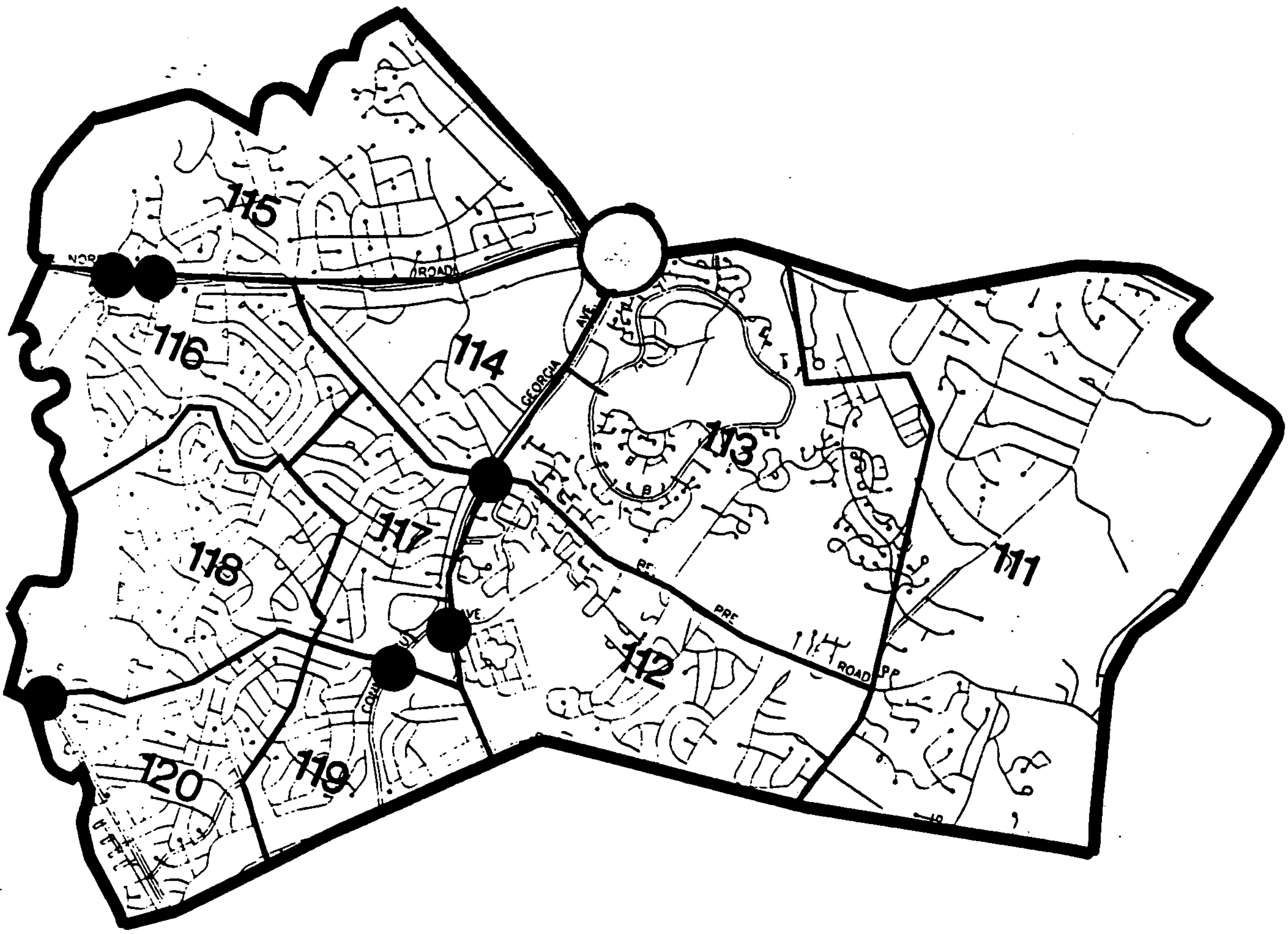
Key:

Large Dots: 1996-1999 data

Small Dots: pre-1996 data

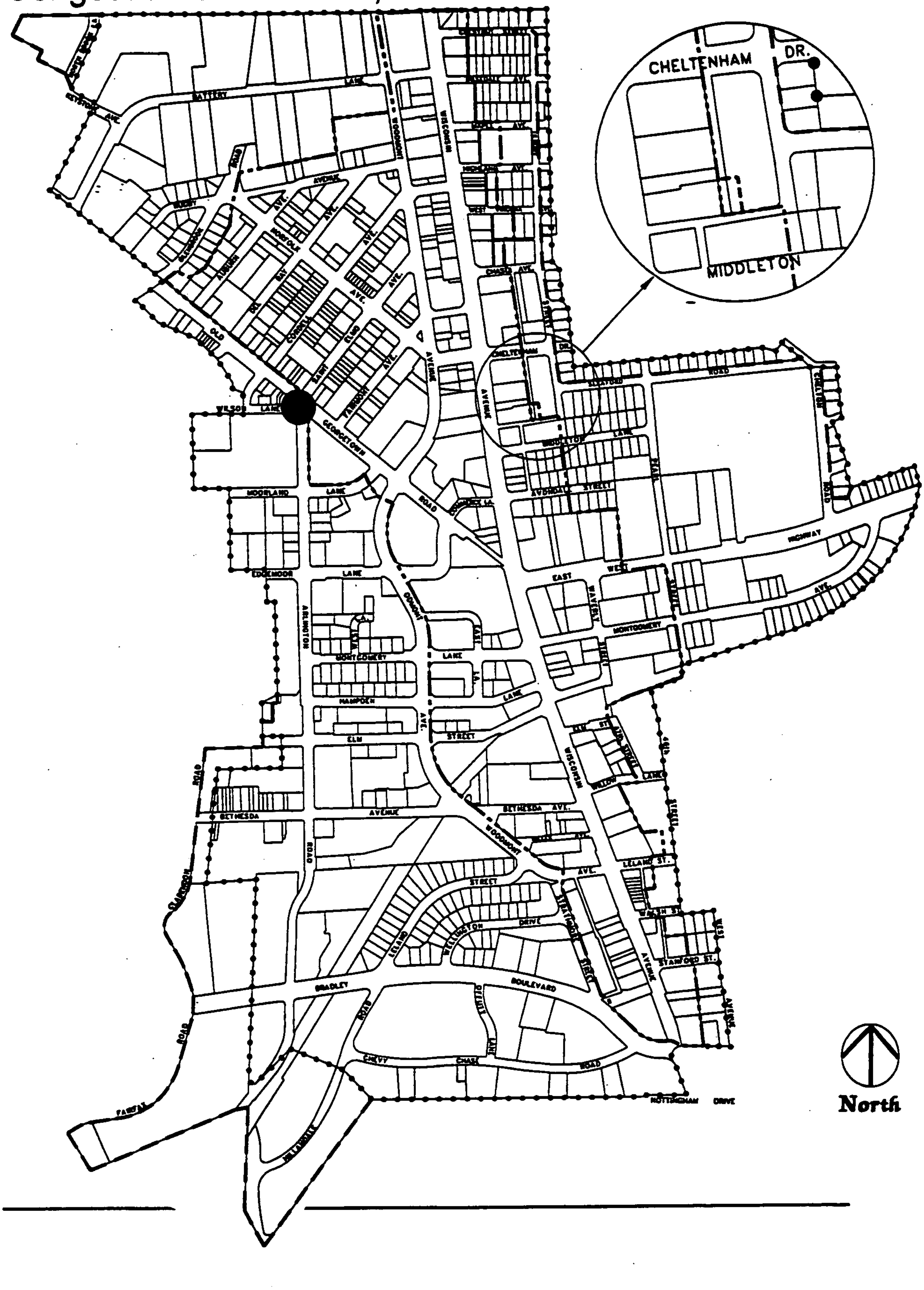
Aspen Hill

Congestion Standard: 1,500

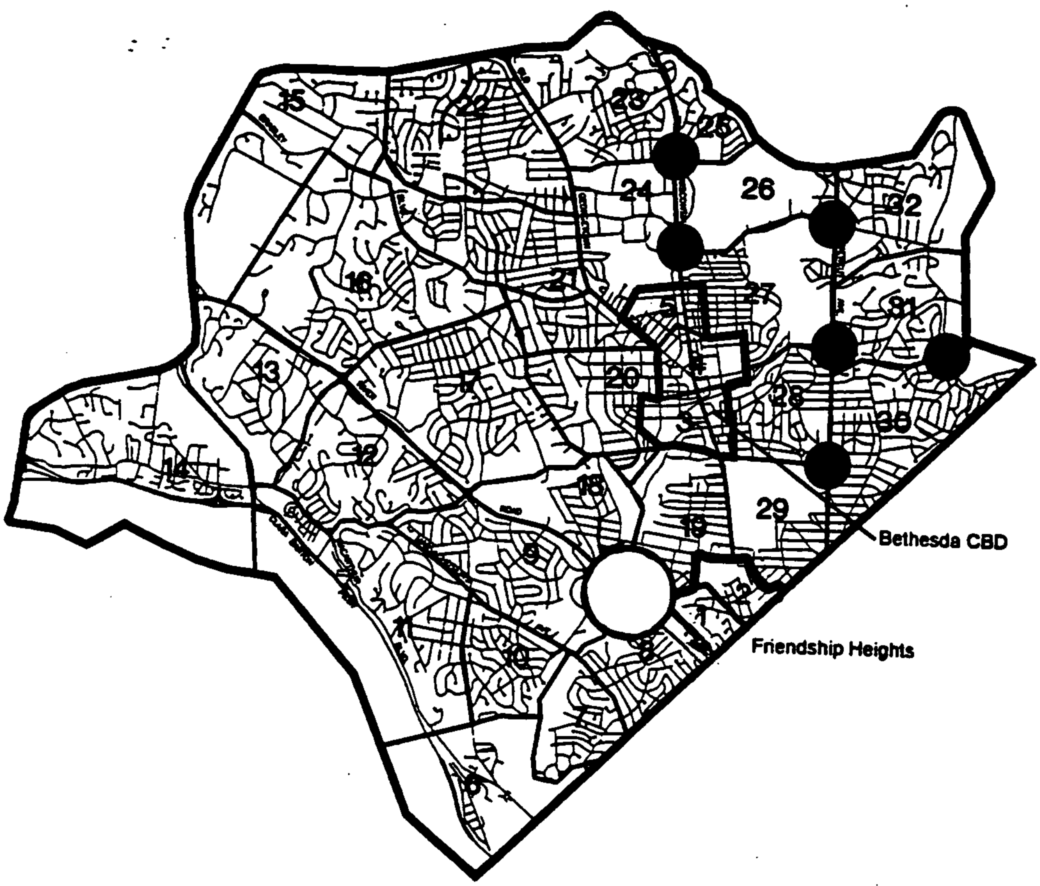


Bethesda CBD

Congestion Standard: 1,800

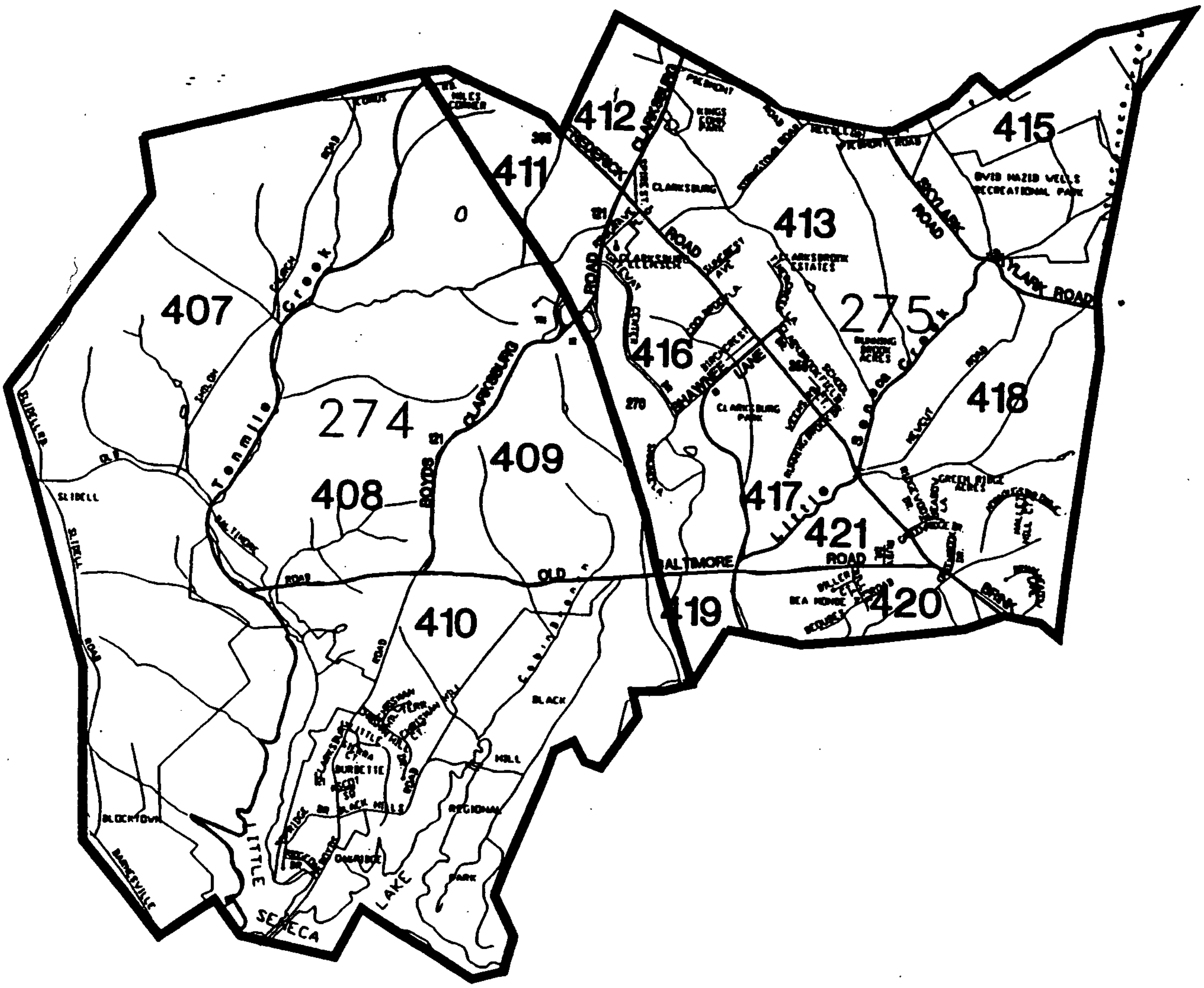


Bethesda/Chevy Chase
Congestion Standard: 1,650



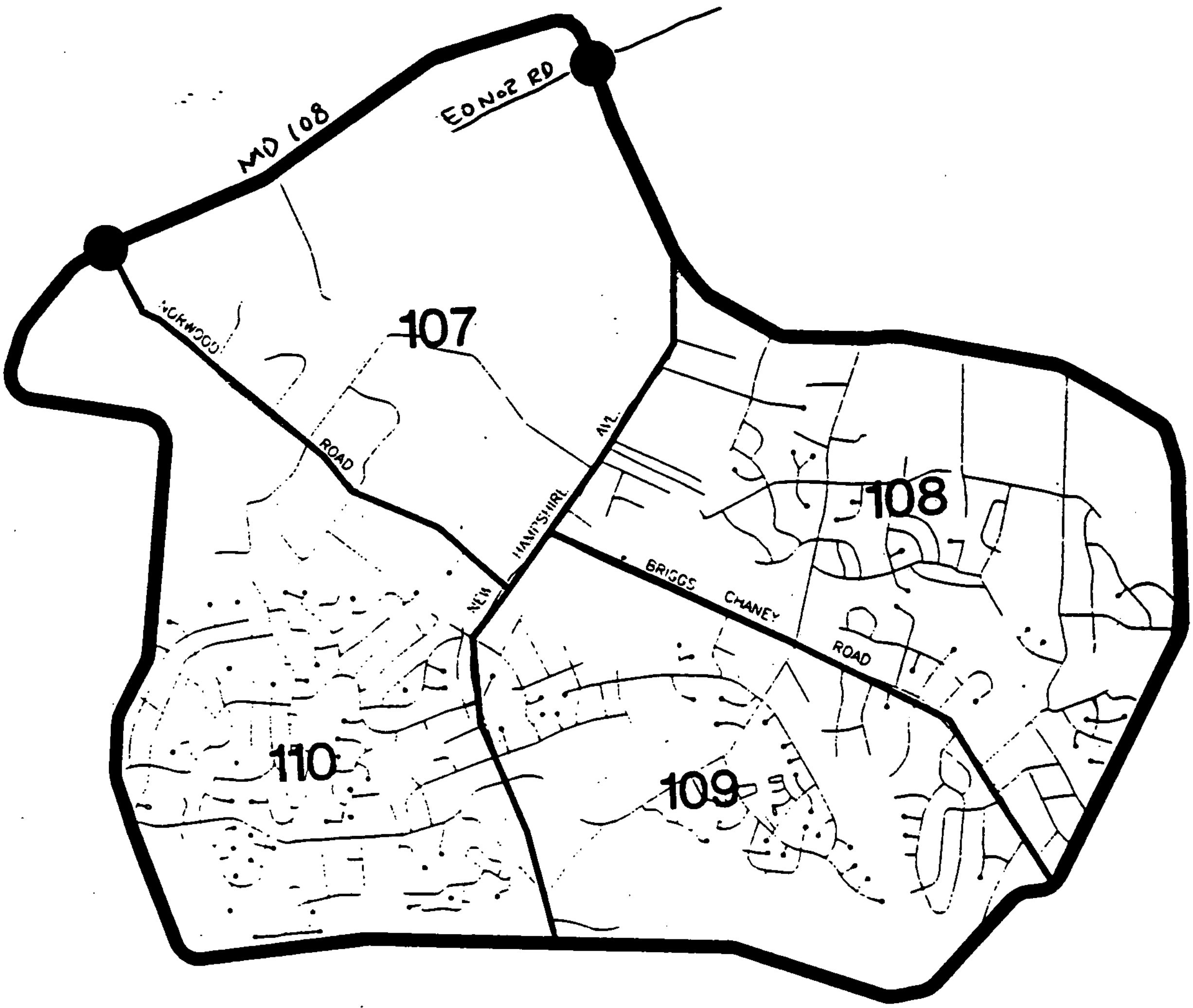
Clarksburg

Congestion Standard: 1,500

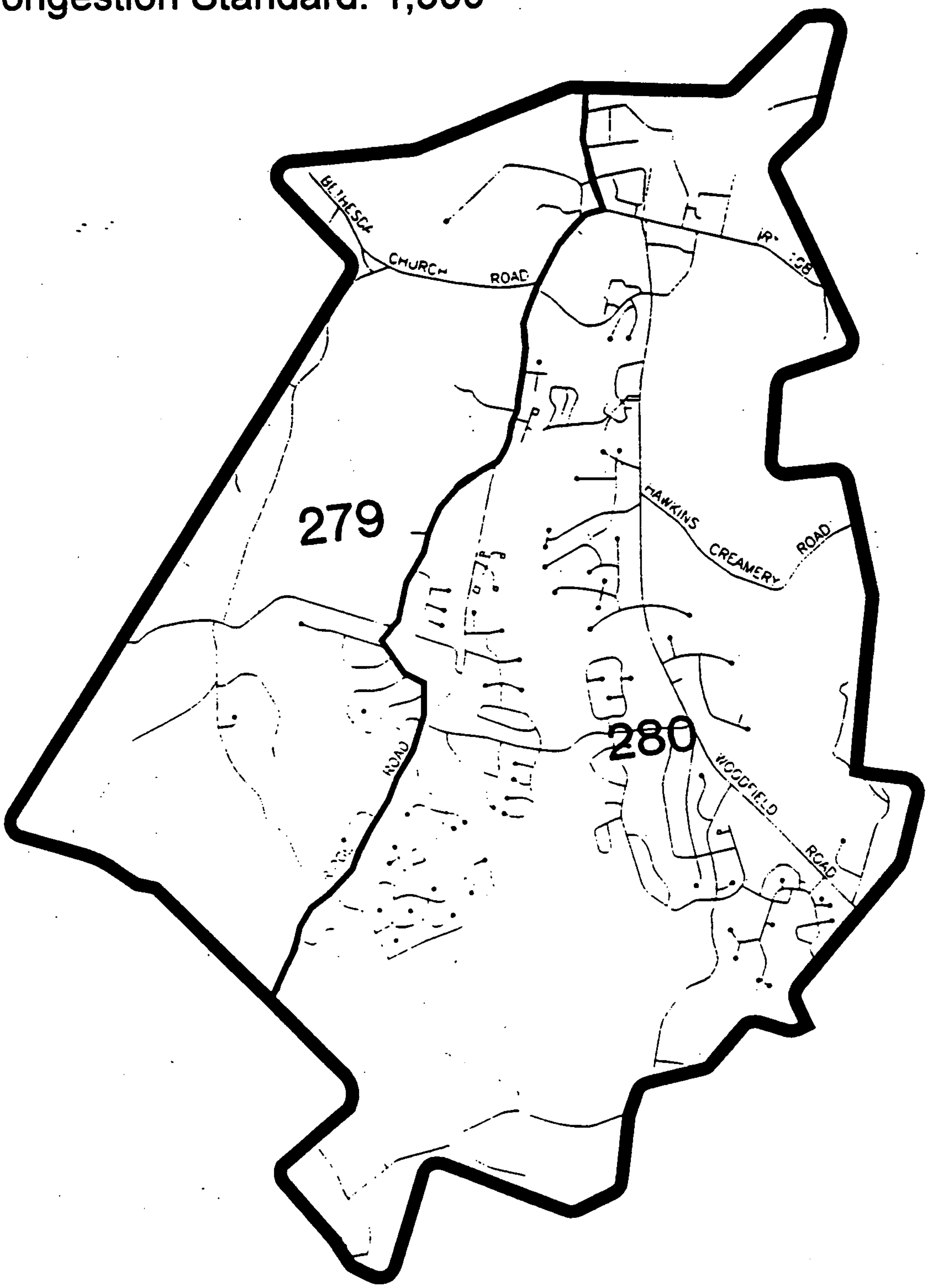


Cloverly

Congestion Standard: 1,525



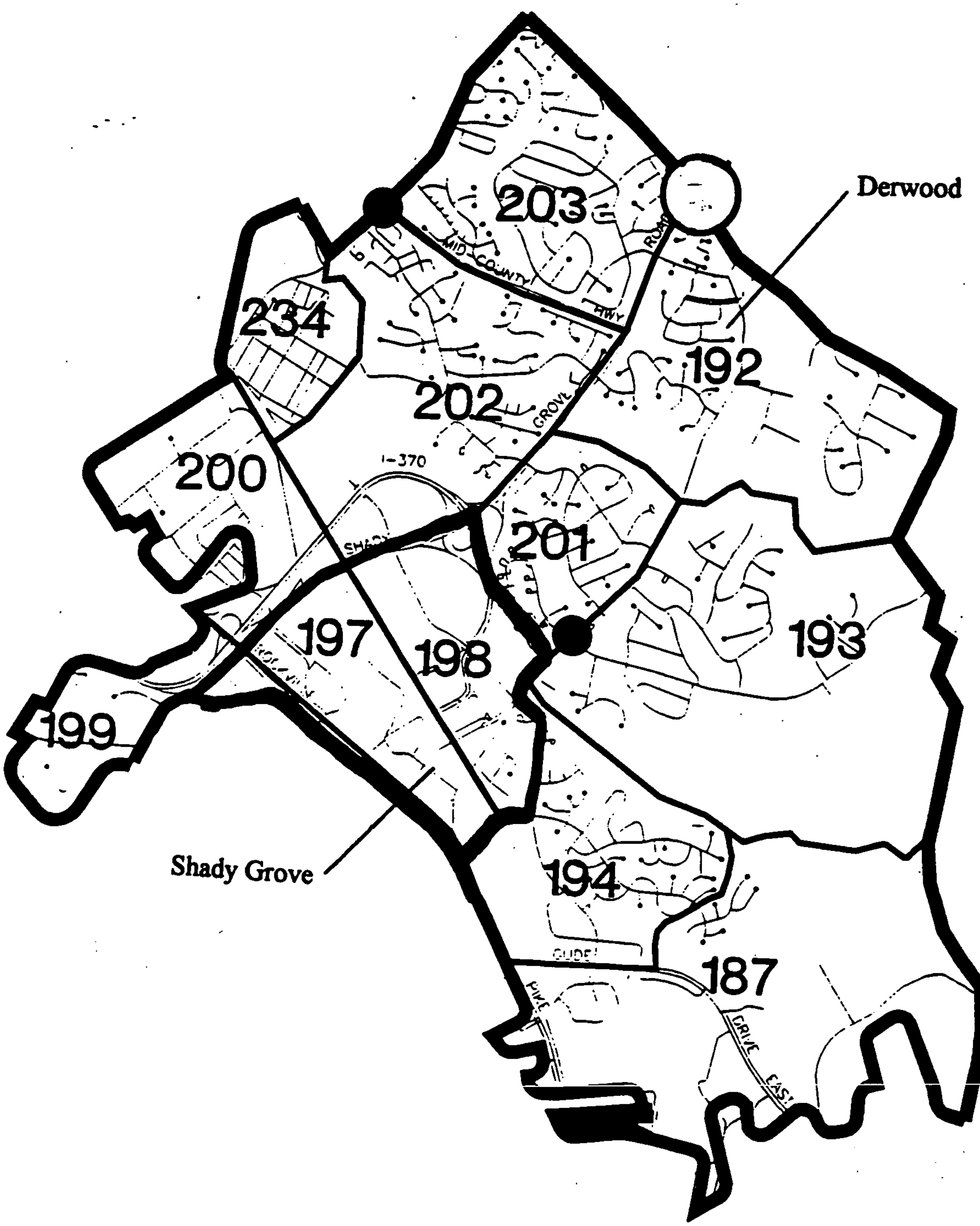
Damascus
Congestion Standard: 1,500



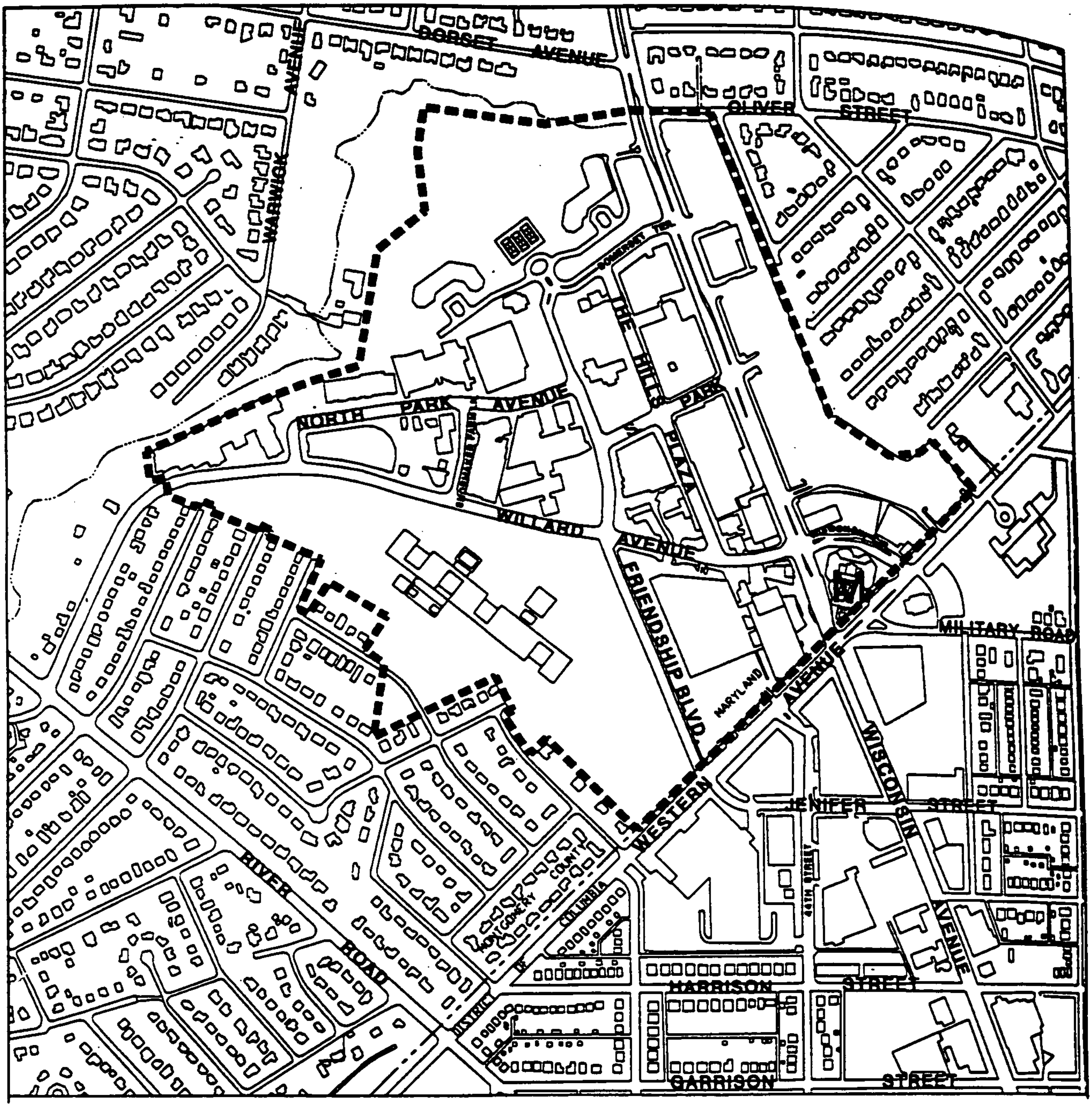
Derwood and Shady Grove

Derwood Congestion Standard: 1,525

Shady Grove Congestion Standard: 1,800

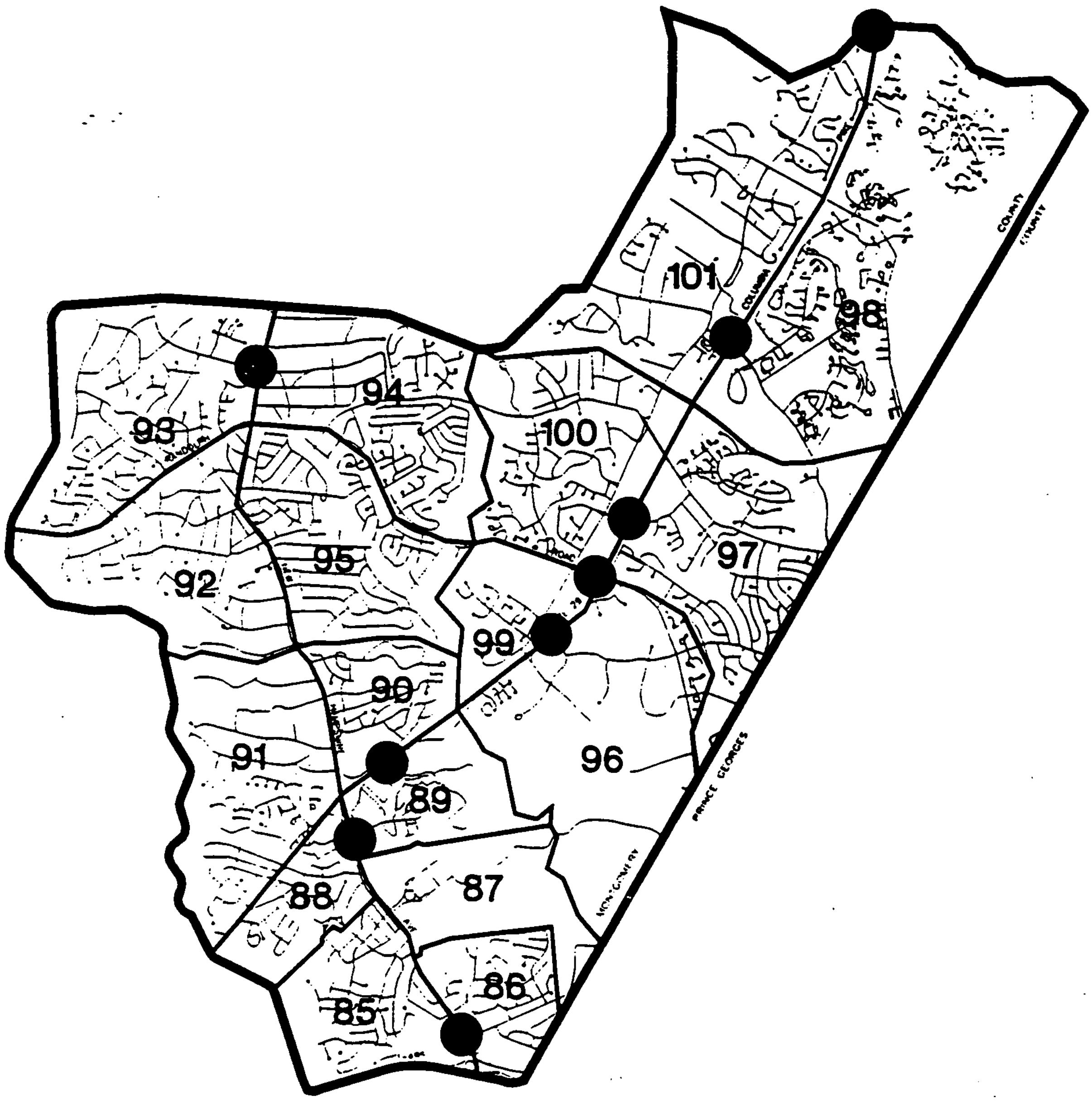


Friendship Heights
Congestion Standard: 1,800

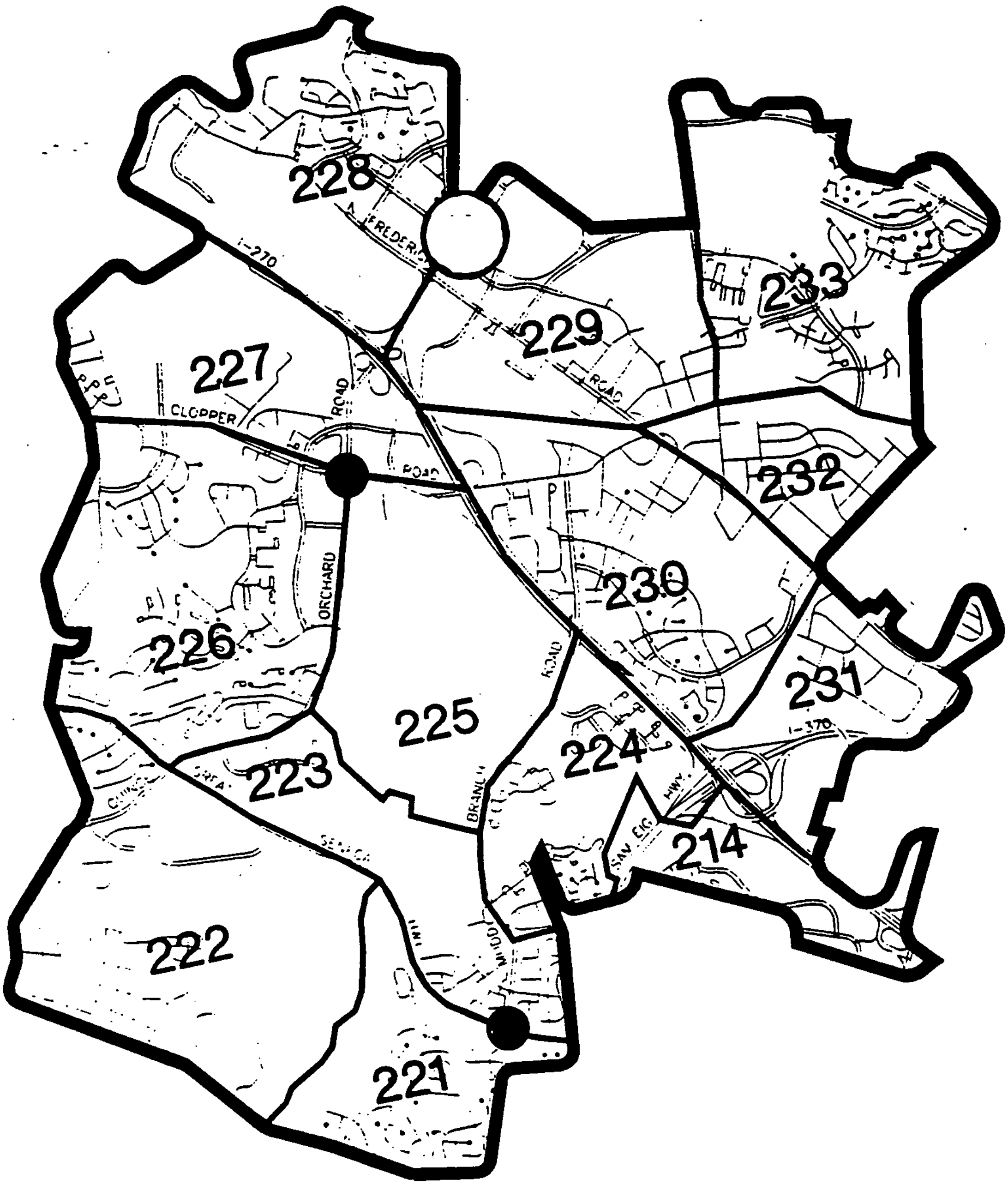


Fairland/White Oak

Congestion Standard: 1,550

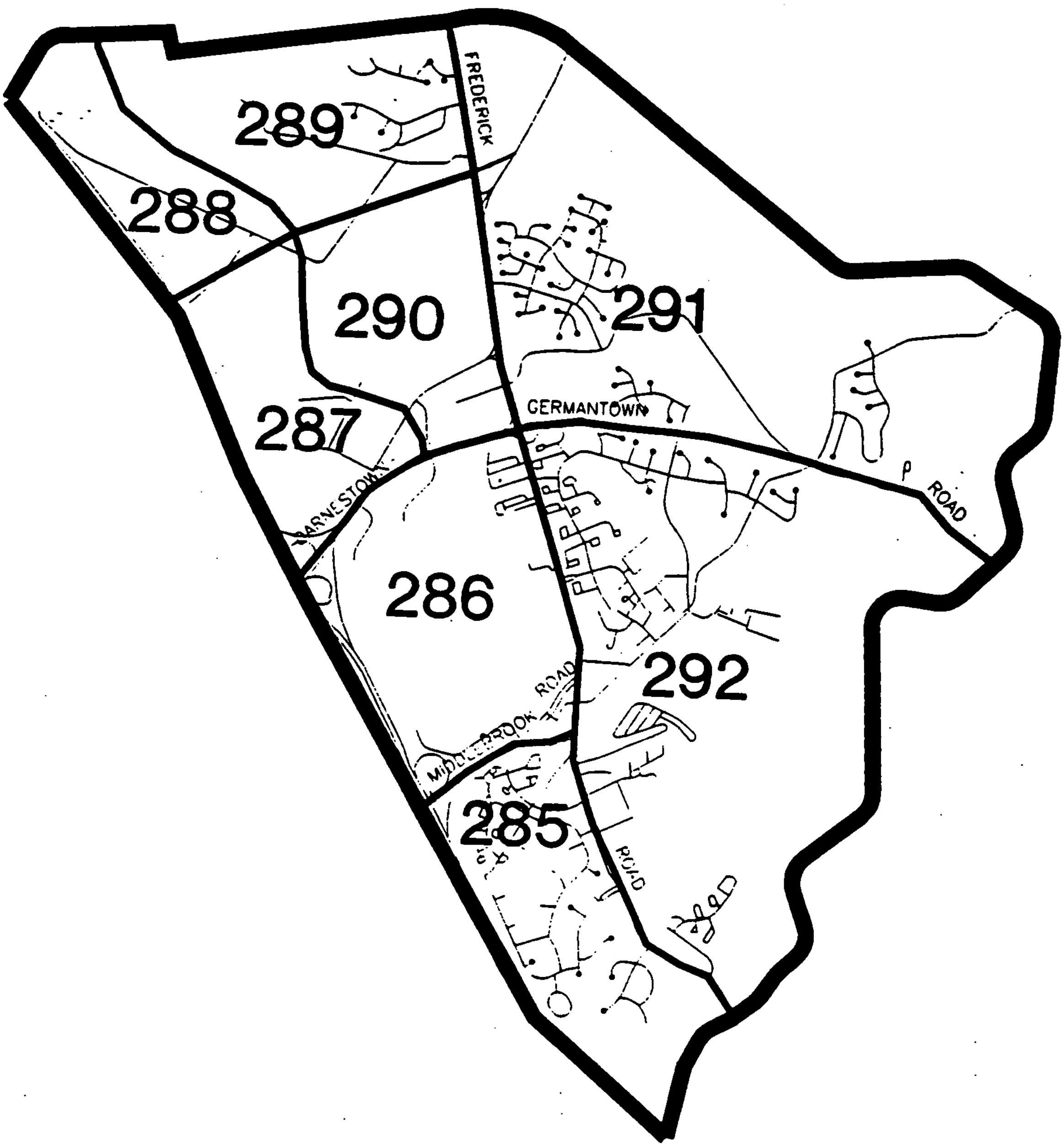


City of Gaithersburg
Congestion Standard: 1,525



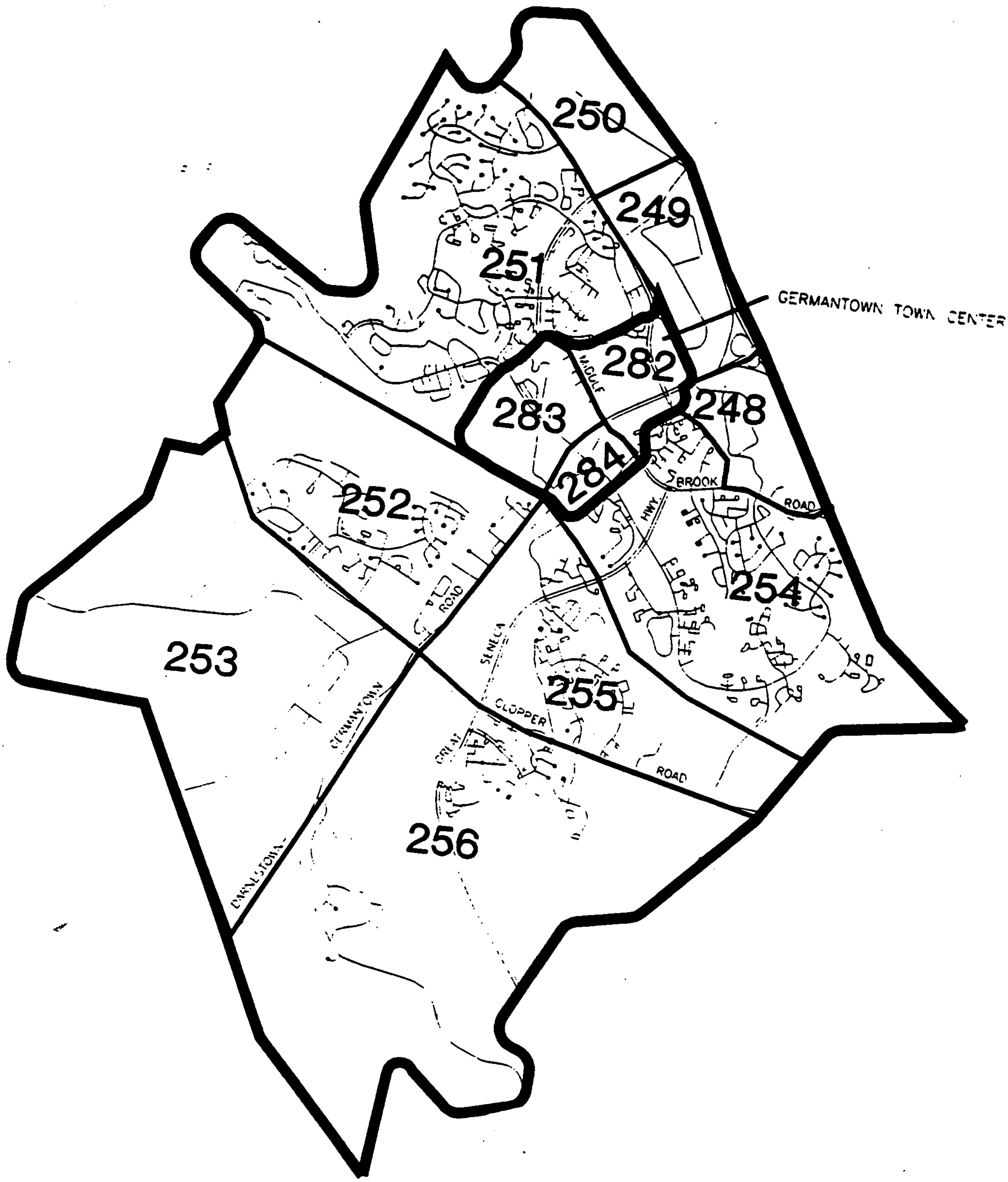
Germantown East

Congestion Standard: 1,500



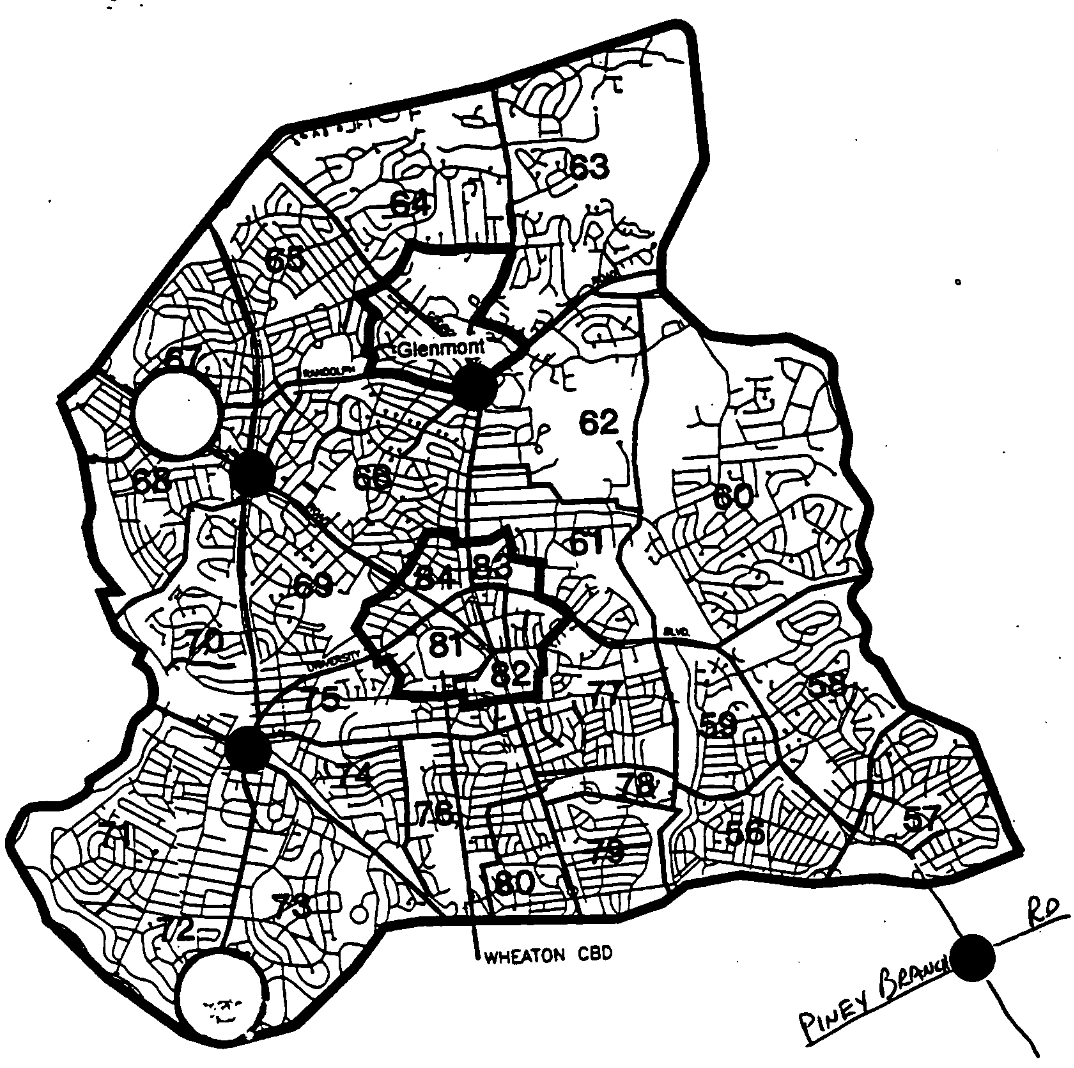
Germantown West and Germantown Town Center

Congestion Standard: 1,500

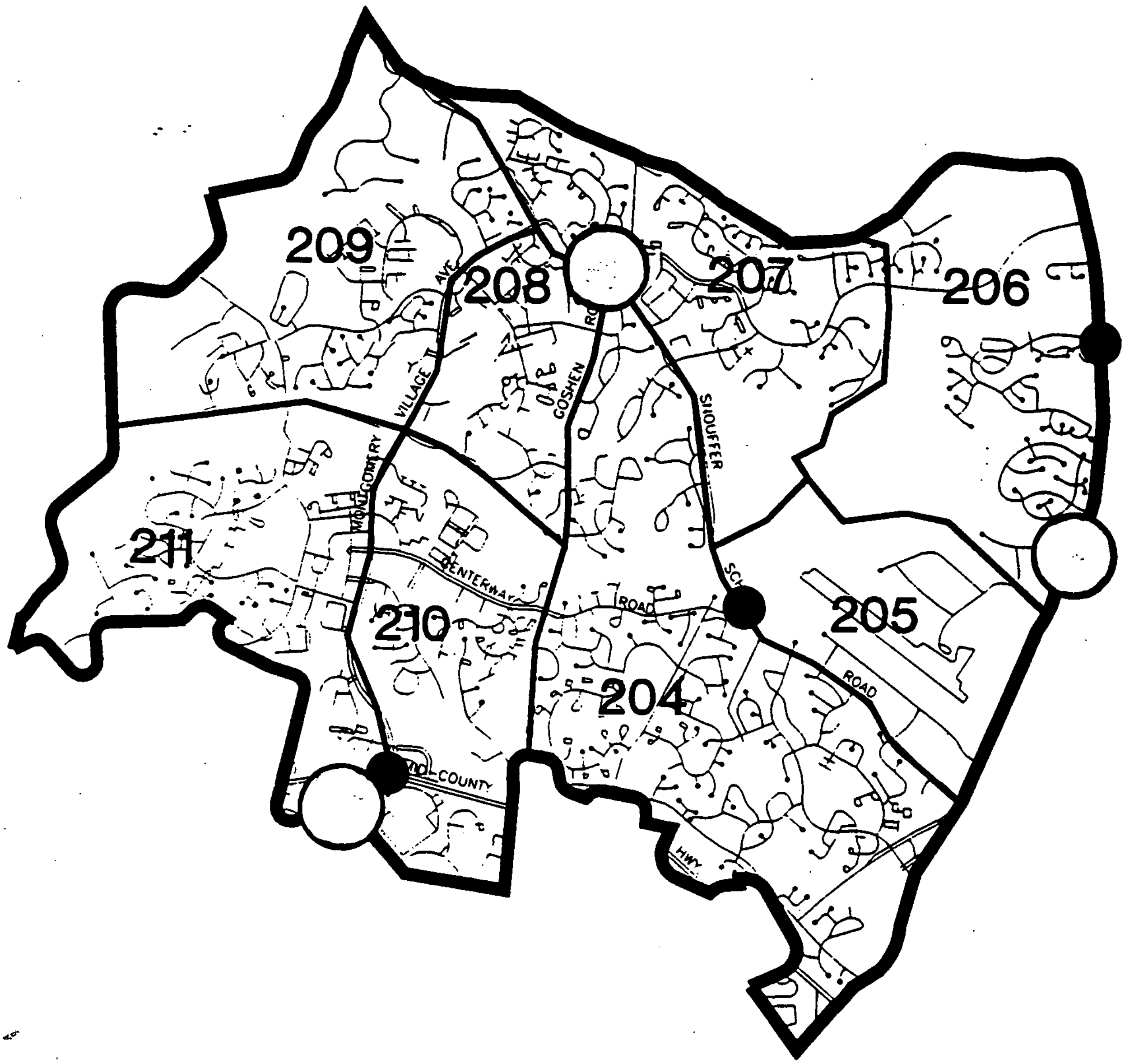


Kensington/Wheaton, Glenmont, and Wheaton CBD

Kensington/Wheaton Congestion Standard: 1,650
Glenmont Congestion Standard: 1,800
Wheaton CBD Congestion Standard: 1,800



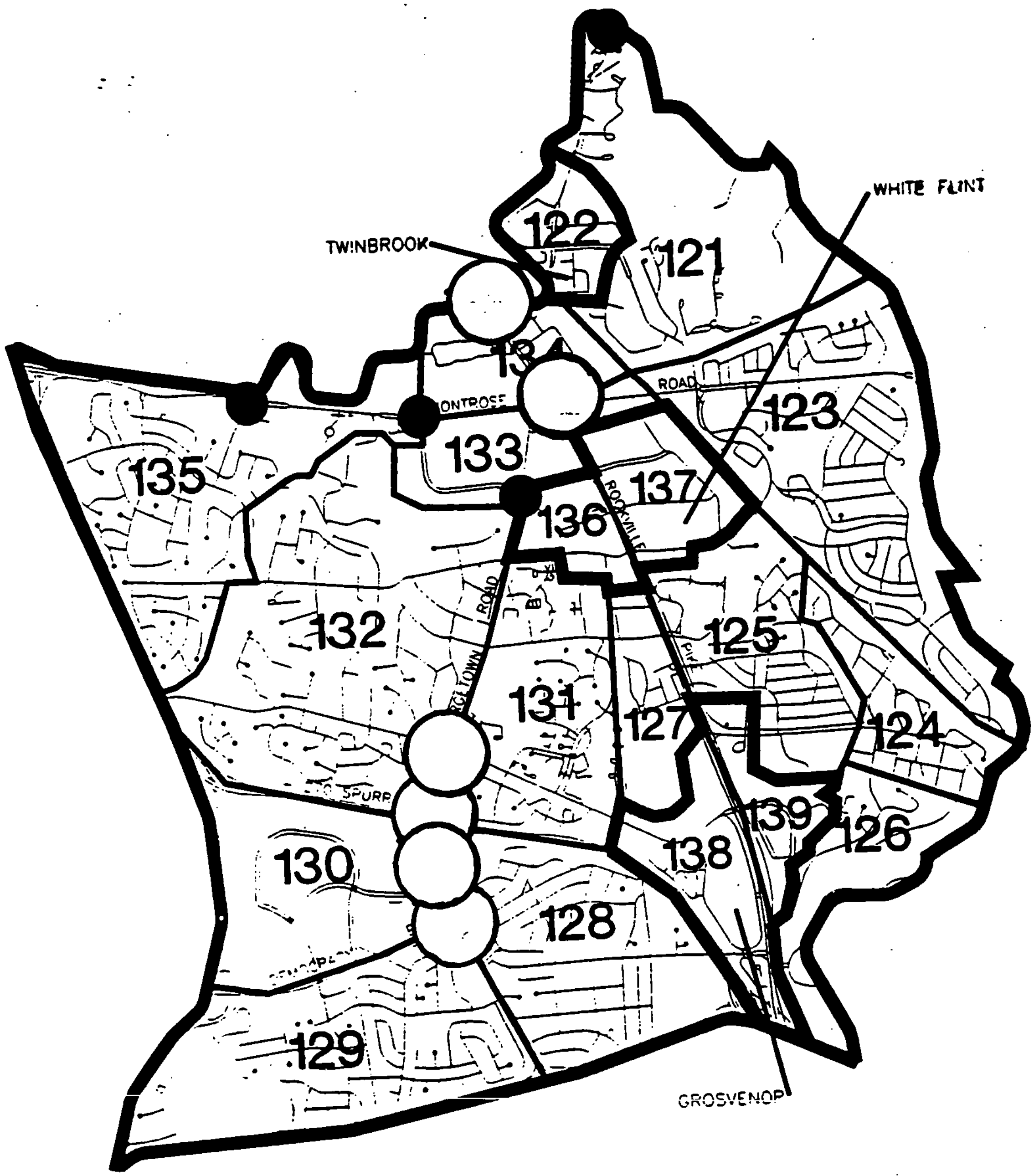
Montgomery Village/Airpark
Congestion Standard: 1,500



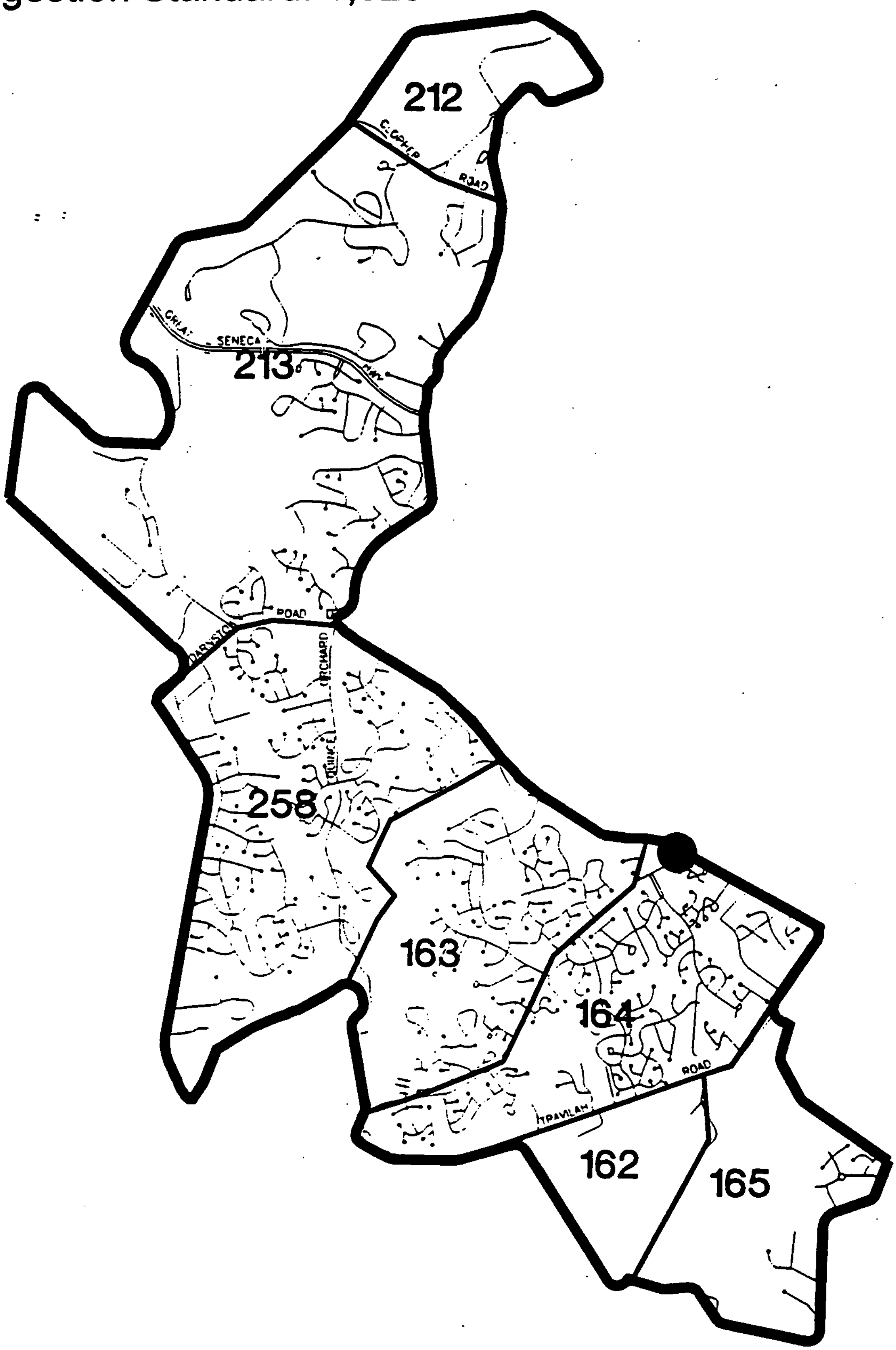
North Bethesda, Grosvenor, Twinbrook, and White Flint

North Bethesda Congestion Standard: 1,500

Grosvenor, Twinbrook, and White Flint: 1,800

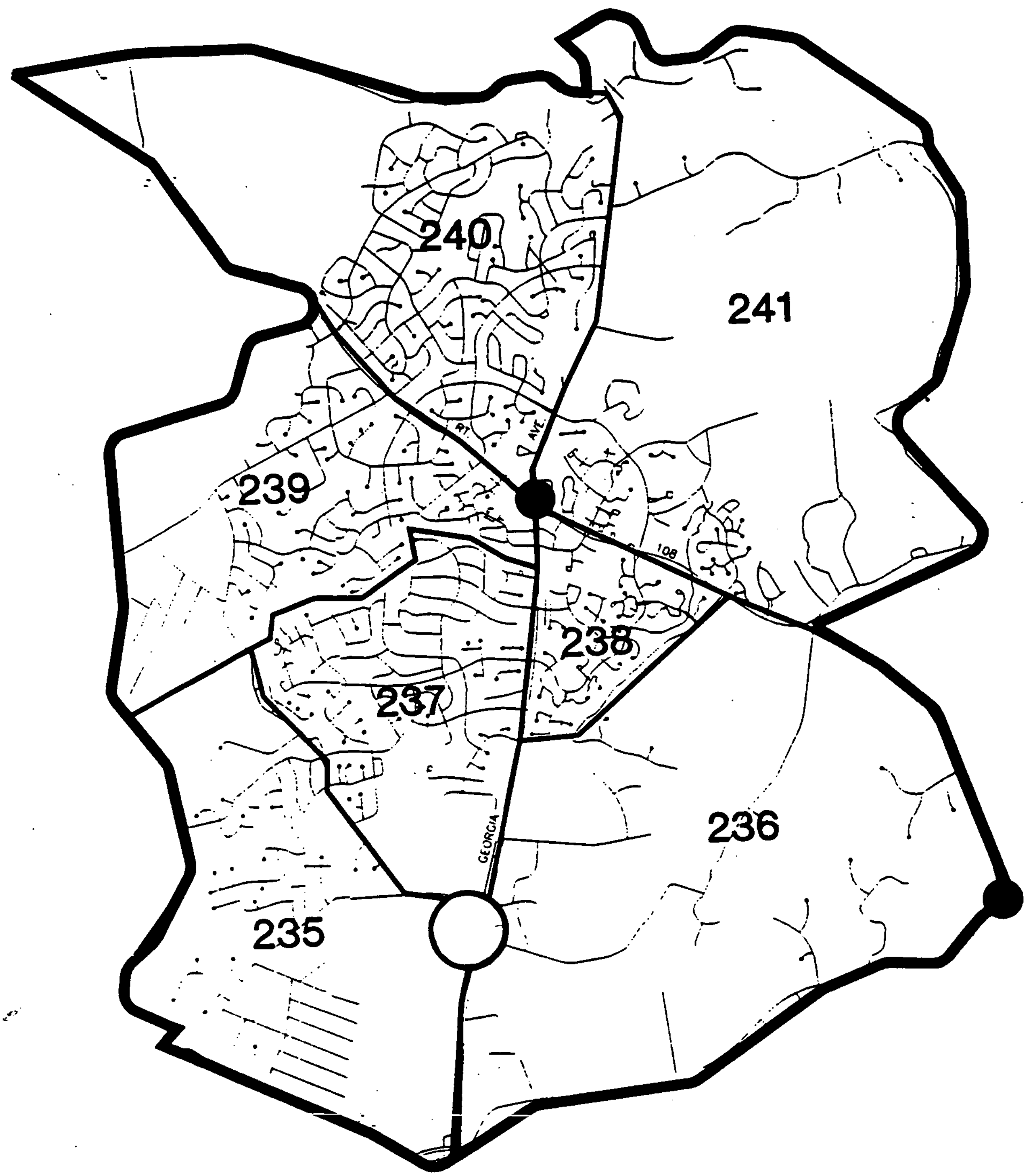


North Potomac
Congestion Standard: 1,525

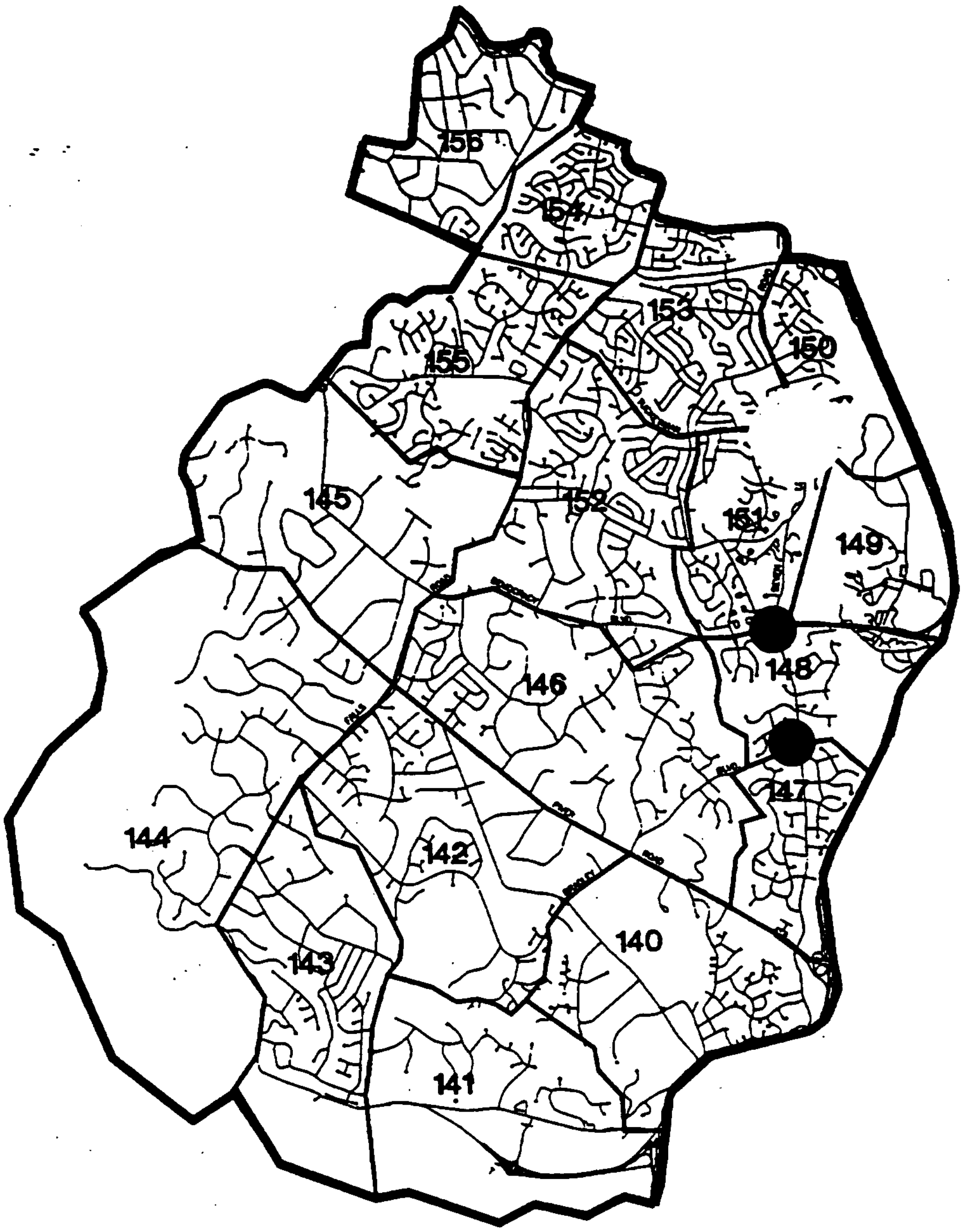


Olney

Congestion Standard: 1,525

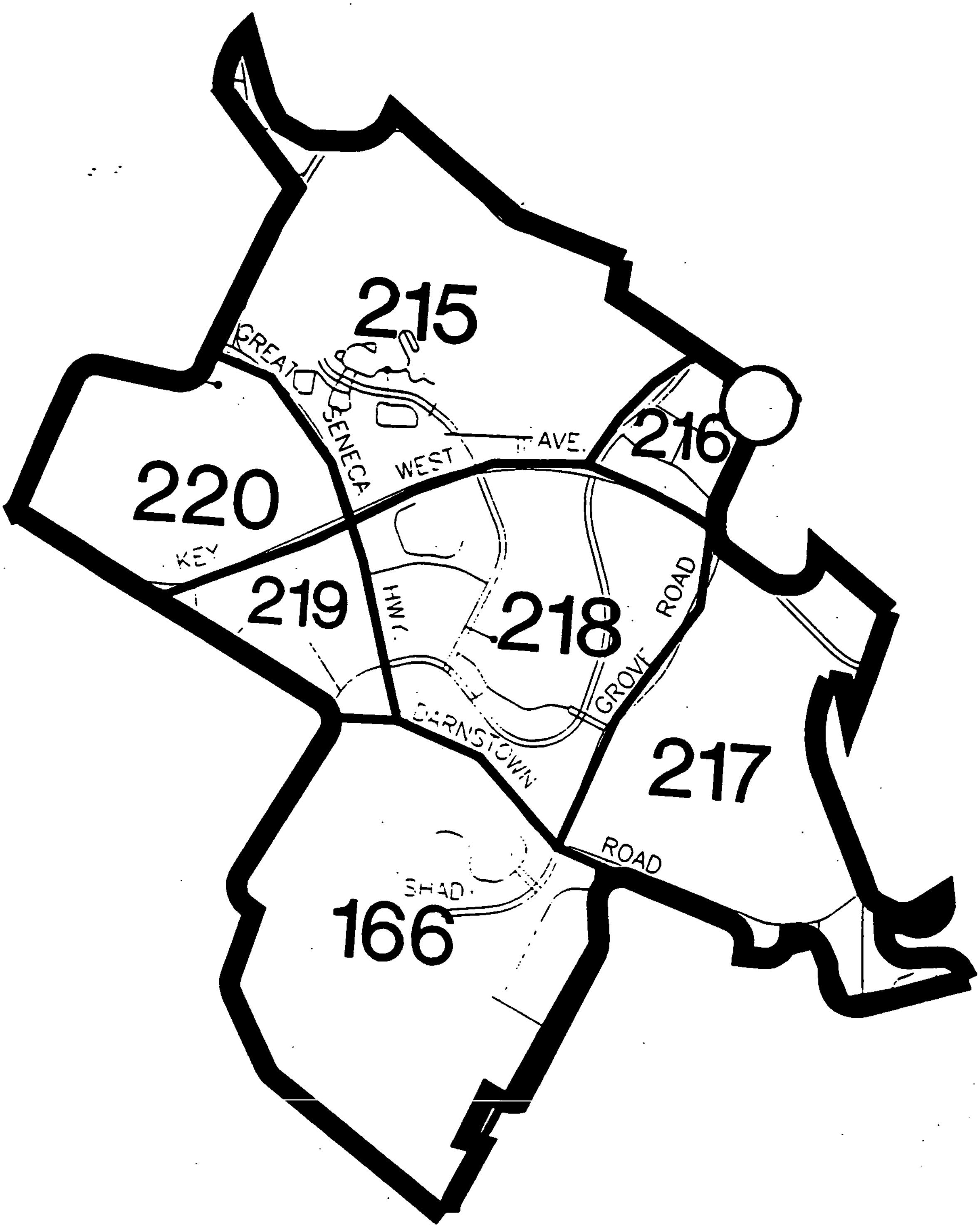


Potomac
Congestion Standard: 1,525



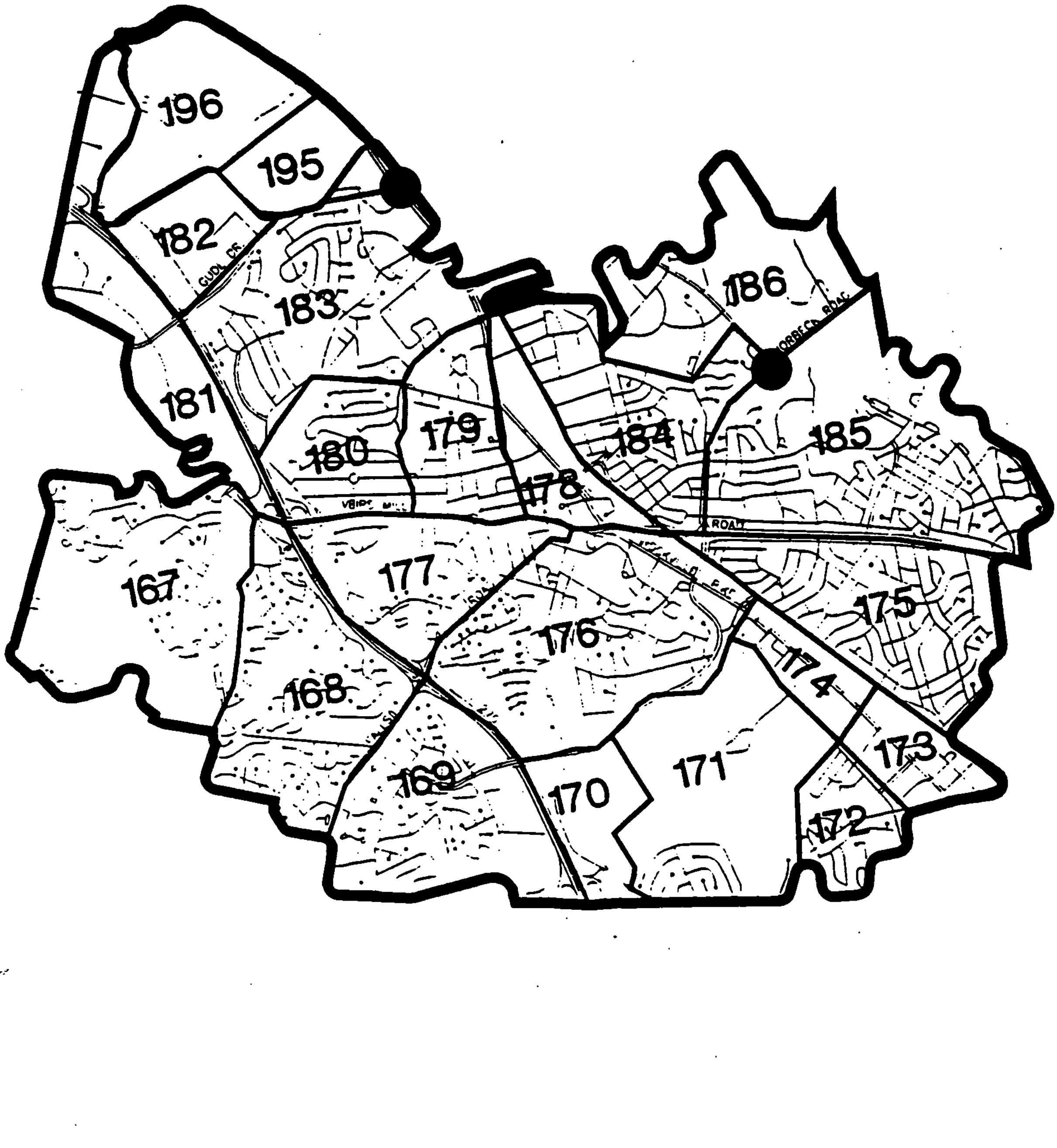
Research & Development Village

Congestion Standard: 1,525



Rockville

Congestion Standard: 1,600



Silver Spring/Takoma Park and Silver Spring CBD

Silver Spring/Takoma Park Congestion Standard: 1,650

Silver Spring CBD Congestion Standard: 1,800

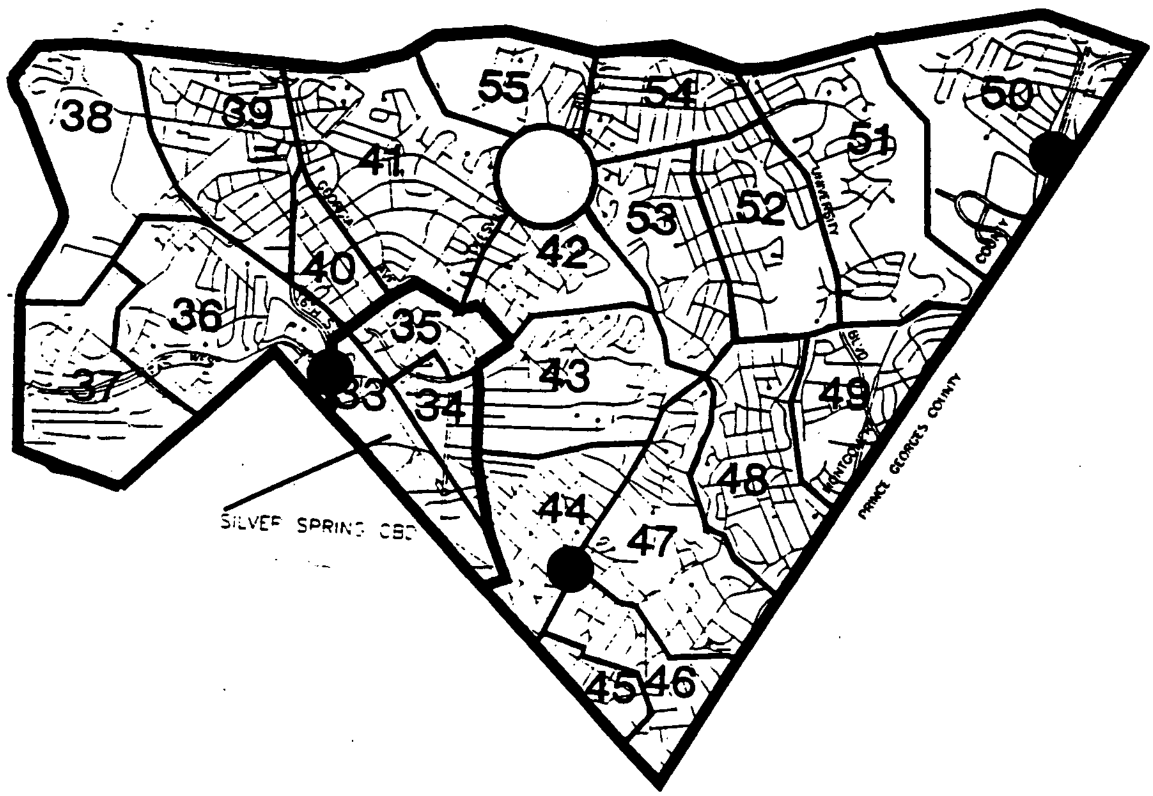


Table 5. Directional Traffic Volumes During Peak Periods in Selected Locations

Location	Year	Northbound vs. Southbound (%)		Eastbound vs. Westbound (%)	
		Morning Peak (7-9 AM)	Evening Peak (4-6 PM)	Morning Peak (7-9 AM)	Evening Peak (4-6 PM)
1. Interstate I-270 South of Clarksburg Road (MD 121)	1990	24/76	74/26	—	—
	1995	26/74	71/29	—	—
2. Frederick Road/Avenue (MD 355) Intersection with Shady Grove Road	1989	19/81	64/36	29/71	70/30
	1990	25/75	66/34	40/60	66/34
	1992	31/69	67/33	37/63	68/32
	1995	19/81	57/43	41/59	74/26
	1998	31/69	70/30	34/66	72/28
3. Georgia Avenue (MD 97) Intersection with Norbeck Road (MD 28)	1988	23/77	75/25	53/47	78/22
	1989	21/79	72/28	58/42	81/19
	1990	24/76	73/27	55/45	82/18
	1991	20/80	68/32	—	76/24
	1994	25/75	71/29	53/47	84/16
4. Rockville Pike (MD 355) Intersection with Montrose - Randolph Road	1989	41/59	62/38	33/67	51/49
	1990	42/58	63/37	43/57	49/51
	1992	36/64	64/36	39/61	49/51
	1994	39/61	64/36	40/60	42/58
	1995	36/64	58/42	38/62	47/53
	1997	39/61	62/38	37/63	50/50
	1998	40/60	63/37	37/63	47/53
5. Georgia Avenue (MD 97) Intersection with Randolph Road	1988	33/67	65/35	28/72	47/53
	1989	30/70	65/35	27/73	57/43
	1991	28/72	61/39	29/71	44/56
	1992	29/71	53/47	27/73	—
	1995	31/69	53/47	33/67	57/43
6. Columbia Pike (US 29) North of Randolph Road	1992	23/77	67/33	—	—
	1995	24/76	68/32	—	—
7. Interstate I-495 (Beltway) at the Persimmon Tree Road Overpass	1990	—	—	51/49	56/44
	1995	—	—	49/51	51/49
8. Interstate I-495 (Beltway) West of New Hampshire Avenue (MD 650)	1990	—	—	53/47	44/56
	1995	—	—	49/51	44/56

Table 6.County Government Expenditures Related to Transportation

Type	FY 89 ($M)	FY 90 ($M)	FY 91 ($M)	FY 92 ($M)	FY 93 ($M)	FY 94 ($M)	FY 95 ($M)	FY 96 ($M)	FY 97 ($M)	FY 98 ($M)
Roads	56.1	55.8	40.8	25.0	36.5	31.4	44.8	50.4	51.2	40.1
Transit	10.4	4.9	14.1	5.9	3.3	4.2	5.2	7.6	6.4	6.1
TOTAL	66.5	60.7	54.9	30.9	39.8	35.6	50.0	58.0	57.6	46.2

Table 7. Maryland State Highway Administration Expenditures Related to Transportation

FY 89 ($M)	FY 90 ($M)	FY91 ($M)	FY 92 ($M)	FY 93 ($M)	FY 94 ($M)	FY 95 ($M)	FY 96 ($M)	FY 97 ($M)	FY 98 ($M)
156.7	111.9	62.7	37.0	29.2	32.1	49.2	90.7	72.9	45.8

Table 8: Change in Lane Miles of Roadway Compared to Changes in Population and Jobs

YEAR	TOTAL LANE MILES	CHANGE TOTAL LANE MILES	%CHANGE TOTAL LANE MILES	CUM.% CHANGE TOTAL LANE MILES	POPULATION	CHANGE POPULATION	% CHANGE POPULATION	CUM % CHANGE POPULATION	JOBS	CHANGE JOBS	% CHANGE JOBS	CUM % CHANGE JOBS
1986	5453				645,000				398,779			
1987	5570	117	2	2	680,000	35,000	5	5	419,438	20,659	5	5
1988	5684	114	2	4	710,000	30,000	4	10	433,979	14,541	3	9
1989	5845	161	3	7	735,000	25,000	4	14	450,848	16,869	4	13
1990	5989	143	2	1	757,027	22,027	3	17	465,970	15,122	3	17
1991	6085	96	2	12	765,000	7,973	1	19	446,616	(19,354)	-4	12
1992	6124	39	1	12	773,000	8,000	1	20	446,089	(527)	0	12
1993	6163	39	1	13	785,000	12,000	2	22	446,703	614	0	12
1994	6220	56	1	14	798,000	13,000	2	24	448,588	1,885	0	12
1995	6266	46	1	15	810,000	12,000	2	26	462,490	13,902	3	16
1996	6401	135	2	17	819,000	9,000	1	27	463,949	1,459	0	16
1997	6508	107	2	19	828,000	9,000	1	28	477,559	13,610	3	20

Appendix 3a

Setting Time Limits for a Finding of Adequate Public Facilities

The Montgomery County Planning Board recommends that the time limit for a finding of adequate public facilities be tied to the size, type and location of the development project being approved. APF time limits would range from six to twelve years, and would be set by the Planning Board at the time of preliminary plan approval. The process for determining the APF time limit for a development project would follow the same process currently in place for the phasing of plat recordation. Although the Planning Board would have the ability to set time limits based upon the individual characteristics of each application, the general guideline would be that a non-residential project would receive a six-year approval if it consisted of less than 150,000 square feet or consisted of only one building, and a residential project would receive a six-year approval if it consisted of less than 200 housing units. If adopted, the new approach to setting APF time limits would apply to new approvals only.

Development projects are tested for public facilities adequacy at the time of preliminary plan of subdivision. Before 1989, a finding of public facilities adequacy ("APF approval") did not expire. In 1989, the subdivision ordinance was amended to set a time limit of 12 years for an APF approval. Because all existing preliminary plans were grandfathered, the first plans to expire under the 12-year limit won't expire until 2001.

This appendix will review the rationale for time limits on a finding of adequate public facilities, the numerous studies that have been done in the past on this topic, and other relevant aspects of pipeline administration. Together, these elements show how the Planning Board came to make the above recommendations.

Rationale for the APF Time Limit

Why set a time limit on a finding of adequate public facilities? The purpose of the time limit is to facilitate an efficient allocation of a limited good; that is, development capacity. The following points support this view:

1. There is only a limited amount of development that can be approved without creating unacceptable levels of congestion.

2. The AGP allocates this development capacity (up to the "staging ceiling") on a first-come, first-served basis until it is completely allocated. In some policy areas, there is a waiting list (a "queue of pending development" or "queue") for capacity.

3. New development capacity is "created" when the County or State improves the transportation network by building or widening a road, opening a new transit station, etc. Each year, the AGP Ceiling Element provides the analysis to determine how much new development capacity is created from new transportation projects. That new capacity is allocated to the development projects in the "queue."

4. New development capacity, because it is created by building major roads or transit facilities, is expensive and is added relatively slowly. This means that there is often demand for more capacity than is available. Therefore it is important that the limited supply of development capacity be used as efficiently as possible.

5. Without an APF time limit, a development project could reserve development capacity for its own use forever, whether or not the development project is ever built. This means that the development capacity cannot be used by a development project that is ready to move to construction.

6. In the mid-1990s, when there was very little development activity, the concern was that many approved projects might be "dead" (not moving forward) and reserving development capacity that could have been used by "live" projects. Today, with increased development activity, it is apparent that some of those "dead" projects were waiting for the market to improve, and they are now moving forward. However, the improved market also means that there are more projects in the queue ready to move forward as soon as development capacity becomes available. It is still critical, therefore, that projects not ready to move ahead not be allowed to tie up capacity.

7. The APF time limit, then, gives a specific development project a reasonable amount of time to get its building permits. If the developer of the project does not obtain building permits by the deadline, the development capacity is given to the next in line. This process reduces the time desired development projects wait for new capacity.

8. A third rationale is that, even if an applicant no longer wishes to pursue a planned subdivision, there is currently no mechanism for removing that subdivision from the pipeline unless the applicant requests it. As there is no benefit to voluntarily removing the subdivision from the pipeline, the project will likely remain in the pipeline until it expires.

9. In essence, allocation of development capacity to a specific development project represents an investment (in the form of infrastructure financing) by the citizens in that development. If the development is not constructed, the public has the right to

reallocate its investment toward a project more likely to provide the expected benefits.

Previous Studies of APF Time Limits

The APF time limits issue (also known as the "Pipeline Reform" issue) has been under discussion since 1991, when the then-Office of Planning Policies prepared a report showing the age and activity status of the pipeline of approved development. That report was updated in 1993 as part of the preparation for the FY94 AGP.

The 1993 Pipeline Reform Study

The 1993 report looked at commercial and residential projects approved before 1989 by completion status (no activity and partially complete), size, and policy area. It compared pipeline size to the forecast pace of development.

The analysis of the then-existing pipeline found that the majority of commercial projects were approved in 1989 or later. The year 1991 was an especially big year for commercial approvals. At the then-forecast pace of commercial development, it was expected that the commercial pipeline would take at least 10 years to absorb.

The commercial pipeline analysis looked at each policy area that was then in moratorium to see what the effect would be of applying shorter time limits to the existing pipeline. Reducing the APF time limit to ten years would have brought one area out of moratorium: Germantown Town Center, which was brought out of moratorium later with road projects programmed by the County. The ten-year time limit would have substantially reduced the jobs deficit in Montgomery Village/Airpark, Fairland/White Oak, and to a lesser extent, Germantown West (also no longer in moratorium). However, much of this reduction was due to the assumption that loophole properties (projects approved prior to 1989 and under current law have until 2001 to build out) would be subject to the ten-year limit. Several of these projects were approved in the early 1980s. Further shortening the time limit to seven years was found to have little effect.

The residential pipeline analysis showed a younger and more active pipeline. At the forecast pace of residential development (which has since been reduced). It was estimated that the County would take a little over six years to build an equivalent number of housing units as the pipeline then contained (about 32,000 units). Shortening the time limit to ten years had little effect on the residential pipeline, and the effect of shortening the time limit to seven years was to eliminate the deficit that Germantown West had at the time and added to the positive capacity in Olney.

In addition to reviewing the status of pipeline projects, the 1993 study evaluated a

wide variety of approaches to pipeline reform, including those shown in the box on the next two pages. Of these, Park and Planning staff recommended further consideration of three: (1) shortening the time limit of an APF approval, (2) allowing the transfer of staging ceiling from one project to another in the same policy area, and (3) mechanisms for helping developers create their own capacity. The third mechanism (specifically, development district legislation) was already proceeding on a separate track and was adopted the next year.

An approach not considered in the 1993 analysis was allowing developers on a limited basis to pay a fee in exchange for APF approval. The next year, the Council adopted this concept in the two Alternative Review Procedures (for Limited Residential Development and for Metro station Policy Areas), and more comprehensively in 1997 with the "pay-and-go" procedures.

During its worksessions, the Planning Board looked closely at the question of shortening the time limits of an APF approval. In particular, the Board was concerned that shorter time limits might be inappropriate for some projects, such as larger, multi-phased developments. At the same time, the Board recognized that these larger projects can represent a substantial investment of public infrastructure that could be tied up by an inactive project for a considerable period of time. The Board therefore endorsed "interim performance criteria," to test the activity status of projects with longer APF time limits. An example: A project may receive a 6-year APF approval with an automatic extension to 12 years if the project is one-third complete by the end of the sixth year. The Board endorsed applying the new time limits to the existing pipeline. The Board also endorsed transferable staging ceiling while noting its concerns.

County Executive Potter's recommendations for the FY94 AGP included a market-based analysis of development as well as an alternative methodology for determining the utilization of transportation capacity by development. The conclusion of the Executive's analysis was also that the size of the commercial pipeline was very large compared to the pace of development and that a significant portion of the pipeline would probably never be constructed. He also identified a shortage of single-family housing approvals. The Executive recommended consideration of changing the point of APF testing from subdivision review to building permit or, alternatively, a market-based discount of the residential pipeline to allow additional single-family approvals. He also recommended looking at converting some jobs capacity to housing capacity.

In its review of the FY94 AGP, the County Council agreed to address the pipeline question by varying the time limits of an APF approval based upon the size and type of development, by requiring that projects move to construction within a specified time period, and by allowing the transfer of staging ceiling from one project to another. The Council left open the question of whether to apply new time limits to the existing pipe-

line. The Council directed the Planning Board, with the aid of the Executive, to develop specific rules for these approaches in the 1995-1997 AGP Policy Element. The work on this occurred during calendar 1995.

The 1995 Pipeline Reform Study

The scope of the 1995 pipeline reform study was narrower but more detailed than in 1993. This is because preferred mechanisms had been selected and the focus was on developing rules for implementing these general approaches. To some extent, the question of whether the new rules would apply to the existing pipeline (and if they did, what would the effect be?) overshadowed the other elements of the debate.

Park and Planning staff presented to the Board proposed rules for implementing APF time limits based upon the size and type of development, for requiring that projects move to construction within a certain period, and for transferable staging ceiling. Staff recommended the following:

1. Two time limits for APF approvals: Small projects (defined as 200 housing units or less and 800 jobs or less) would receive a six year time limit; large projects (more than 200 housing units or more than 800 jobs) would receive twelve years.

2. A requirement that large projects show progress in first six years: As part of the Planning Board's review of preliminary or site plans, the applicant for a large project would have to submit a phasing schedule indicating that building permits for the first 200 housing units or 800 jobs would be obtained and construction initiated within the first six years of their approval.

3. Allow the transfer of staging ceiling from one project to another in the same policy area.

Staff also considered defining "small" projects as those of less than 100 units or less than 400 jobs. Staff felt that this definition of "small" did not have an appreciable impact on the pipeline. Additionally, staff analyzed a "6-9-12" scenario which would have designated small, medium, and large development projects and assigned them APF time limits of 6, 9, and 12 years respectively. Staff felt that this approach was more complex without generating additional benefit.

The Board held two worksessions on the proposals. On the issue of transferable staging ceiling, the Board noted that their earlier endorsement had been tempered with reservations about the appropriateness of allowing developers to sell publicly-funded development capacity. The Board was also concerned about creating a market for the trading of development capacity and suggested that such a mechanism could confer

Relevant Aspects of Pipeline Administration

The discussion of APF time limits may be informed by a review of aspects of current pipeline administration.

What is the pipeline? The pipeline of approved development ("pipeline") is a list of all development projects that have met the Annual Growth Policy's (AGP's) adequate public facilities (APF) tests.

Why the focus on transportation facilities? In all areas of the County, the current limits on approved development are based upon the transportation facilities test. This is because the amount of development allowable under the tests for other facilities (schools, etc.) exceed that allowed by the transportation test.

What is "publicly-funded transportation capacity?" When a transportation project is wholly funded within the first four years of the capital budget, the County estimates the amount of development the transportation improvement can support. The County allocates this capacity to subareas of the County, called "policy areas." There is a separate allocation for residential and non-residential development in each area because the travel characteristics of jobs and housing are different. "Staging ceiling" is the maximum amount of development that can be supported by the transportation network in a policy area.

How does a development project typically enter the pipeline? Typically, a developer will get in line (the "queue of pending development") to use publicly-funded transportation capacity. Publicly-funded transportation capacity is generally allocated on a first-come, first-served basis. The allocation occurs at subdivision. Developers receive as much capacity as their project requires until the capacity is used up. When the capacity is all allocated, the area is put into subdivision moratorium.

What is a moratorium? When the amount of approved development equals or exceeds the amount of transportation capacity in an area, the area is closed to new subdivision approvals (moratorium) except under particular circumstances.

How do approvals occur in moratorium areas? A developer may agree to provide the transportation infrastructure needed by his development project (either alone or through a development district), or agree to remove as many trips from the roadway as his project would create for a period of time (typically ten years). If the developer is providing infrastructure, the improvement must be under construction and funds committed to its completion before he can begin construction of his development. In the case of "trip mitigation" the trip removal must be verified prior to construction. There are additional alternatives for developers of residential projects. A developer of a residential project may agree to provide a specified amount of affordable housing, or he may agree to pay a fee. Use of the last two provisions is limited by a number of conditions.

What is the time limit for a finding of adequate public facilities? The current time limit is twelve years, with two important caveats. Partially-constructed residential development effectively has no time limit. Any development project approved prior to 1989 has 12 years from 1989 to develop, rather than 12 years from the original approval. Projects approved under the Alternative Review Procedure for Limited Residential Development have three years from when the plat was recorded or the site plan approved, whichever is later. This is effectively a limit of six years.

Can projects be removed from the pipeline for reasons unrelated to APF? Development projects have other time requirements that must be met. The major one is a time limit to record plats (typically three years, although for some large projects, recording of plats may be staged).

additional legal rights to the holders of capacity. In addition, the Board felt that transferable staging ceiling would have limited utility if the existing pipeline were "realigned" using the new time limits. Because of these concerns, the Board could no longer endorse transferable staging ceiling.

Regarding the various time limit proposals, the Board found that too many questions remained unanswered. They requested that over the August recess, Park and Planning staff work with staff from the County Council and the Executive, members of the development industry, and citizens to work out as many of the outstanding issues as possible. This would give the parties most affected by pipeline reform additional time to study the problem and proposed solutions; it was also intended to help clarify issues for the Board. The Pipeline Reform Workgroup met three times and came to consensus on the general attributes of a process for setting time limits on an APF finding for future approvals. There was less consensus on the specifics. However, the development community was solidly against applying new rules to existing pipeline projects while the citizen representatives were in favor of it.

Park and Planning staff prepared a report outlining the issues identified by the Working Group and the various positions of the Working Group on each issue, including points of contention and consensus. Staff also presented a revised recommended approach for setting APF time limits and for applying those new limits to the existing pipeline, if desired.

In its final worksession, the Planning Board noted that the main objective of pipeline reform was to address the problem of a large and inactive existing pipeline and that the importance of how to handle future approvals was modest by comparison. At the same time, the Board felt that while it was clear that a large portion of the commercial pipeline would never be built, it was very much unclear which projects were likely to proceed and which ones were not. A partially-completed project could be equally inactive as a project that had no completion activity at all. The Board heard considerable testimony from the development community that a lack of demand for commercial space, especially office, was the primary reason for a lack of construction activity and that these "inactive" projects were being actively marketed by their developers.

Given this situation, the Planning Board recommended to the County Council that none of the proposed pipeline reform measures be implemented. To quote from the Board's letter to the Council: "The Board is persuaded that the majority of projects in the pipeline are active in the sense that they are ready to move forward as soon as a buyer or tenant is identified. The Board is not convinced that retroactively applying shorter time limits is the answer to stimulating buildout of the existing commercial pipeline, which appears to be held back by existing market conditions rather than how the pipeline is administered."

At the AGP Public Hearing, the County Council heard testimony from the County Executive, development industry representatives, and citizens. The County Executive supported reduction of time limits on future approvals, although not necessarily the specific mechanism put together by Park and Planning staff, as well as transferable staging ceiling. Some development industry representative suggested that reduced time limits of future approvals was reasonable. They also supported transferable staging ceiling. The testimony of the Suburban Maryland Building Industry Association supported suspending the AGP. Pamela Lindstrom, a citizen member of the Working Group, testified to the problems caused by the large pipeline and to the consequences of doing nothing. She noted that shorter time limits would allow more developers an opportunity to use development capacity, which in turn would increase the likelihood that it would be available to a developer when he was ready to move ahead. She also endorsed transferable staging ceiling.

The County Council referred the issue to the Planning, Housing and Economic Development Committee, which deferred discussion to the 1997-1999 AGP Policy Element.

The 1997 Pipeline Reform Analysis

In the 1997-1999 AGP Policy Element, the Montgomery County Planning Board recognized that it would not be possible to equitably reduce APF time limits for already-approved development projects. The Board recommended that the problem of a very large and generally inactive commercial pipeline be addressed by discounting the pipeline based upon expected APF expirations in 2001. The Board also recommended that APF time limits for future approvals be based upon the size and type of development.

Noting that a significant fraction of the projects in the commercial pipeline will expire in 2001, and that it is likely that most of the projects will not be constructed before they expire, the Planning Board suggested "discounting" the pipeline based upon these expected 2001 expirations. This discounting would immediately allocate to each policy area an amount of development capacity equal to the number of jobs expected to expire in 2001.

Adoption of the Planning Board's suggestion would have increased the amount of commercial development approvable in Montgomery County by 34,567 jobs, equivalent to almost three years of job growth, or a 30 percent increase in development capacity.

If fewer development projects expired in 2001 than expected, the difference between the discount and actual expirations would be "paid for" by expirations in succeeding years. Expirations in the year 2003 will be almost as large as those in 2001.

To quote from the Planning Board's comments in the Final Draft 1997-99 AGP Policy Element:

"An assumption driving the pipeline reform issue has not just been that the pipeline is "clogged" with unmarketable projects but also that there are other, ready-to-go projects that cannot be approved because of existing deficits. This was always a proposition that was impossible to prove. Given the size of the commercial pipeline and the variety of projects within it, it seems likely that the current low level of commercial development in Montgomery County is less due to the characteristics of the existing pipeline than to market or other non-AGP conditions.

"This was the basic conclusion of the Planning Board in 1995 and no evidence has surfaced since then to challenge that conclusion.

"However, there is less variety on a policy area basis, and prospective employers looking to locate in a particular geographic area will have their options limited by the AGP. Shorter APF time limits might or might not increase the number of options available at any one time, but would change the options available more frequently. In addition, it would decrease the waiting time for pending development, giving more potential developers in an area a "crack at the bat."

"Given this situation, the Planning Board believe there is merit in changing the method of setting APF time limits for future approvals only. The Board believes that subdivision review is an appropriate point to set APF time limits for a projects, and believes that reasonable guidelines can be developed to allow the Planning Board to set an appropriate APF time limit for a project when they are reviewing preliminary plans.

"In 1995, there was some discussion about setting "performance criteria" or "milestones" (see page 76). These would be requirements that subdivisions with longer APF time limits begin construction within a specified time frame or lose the rest of their APF approval. The idea was to remove inactive projects from the pipeline sooner. However, the Board recommends against further consideration of "performance criteria." One of the lessons from the 1995 Pipeline Reform work effort was that it is extremely difficult to develop objective criteria for determining whether an approved subdivision is "dead."

"The prospect of large-scale removals from the pipeline due to APF expiration in 2001 has led the Planning Board to reconsider the "pipeline discount" approach. The Board's previous reluctance to embrace this approach was based on its rather speculative nature. A discount based upon the expected pipeline removals in 2001, however, is considerably better grounded in reality. The Planning Board believes that the County can

1997 Review of Options For "Pipeline Reform"

The 1997-1999 AGP Policy Element contained this review of options for creating a better match between the pace of development and the provision of infrastructure, such as mechanisms to help speed buildout of the pipeline, to target development capacity first to projects that are more likely to move forward; to remove inactive projects from the pipeline, and to increase the amount of approved development (either by raising staging ceilings or by allowing development to be approved despite moratoria). This is a list of a range of possibilities, not a list of recommended approaches. Some are infeasible or undesirable; others are already being done.

Speed Buildout of the Pipeline

Public incentives/partnerships: The County may provide incentives to encourage approved projects to begin construction. These may be related to the APF conditions placed on the development, or may be unrelated. Incentives may be directed toward developers or may be directed toward firms wishing to locate in the County in new space. Incentives may also take the form of public/private partnerships that enable publicly-desired development to take place. Because they require public expenditures, use is typically limited to instances where clear public policy objectives will be met. It may be inefficient to apply a standard package of incentives in a widespread manner as the amount and type of appropriate incentive would vary on a case-by-case basis. Current County economic development activities to attract and retain firms have the effect of improving the climate for non-residential construction. Partnerships include business incubator space, the conference center, and the Silver Spring redevelopment.

Information: Current work program initiatives such as the commercial site characteristics inventory will help the County match firms with pipeline projects. The class B&C office study will help the County determine how to address this under-utilized resource.

Changing the point of testing for adequate public facilities from subdivision to building permit: If projects do not receive APF approval until they are ready to proceed to construction, the pipeline would consist solely of active projects. However, this would require developers to invest a considerable amount of money in up front costs while their APF status is uncertain.

Target Allocation of Development Capacity

Staging ceiling reserve: The County need not allocate all capacity from publicly-funded infrastructure on a first-come, first-served basis. The County may reserve some capacity for development projects which meet its economic development objectives or which seem most likely to move forward, such as an office building with a signed lease agreement.

Sell development capacity: The County could charge for all publicly-funded development capacity as it is added to staging ceilings. This could be an annual auction of new development capacity or it could involve setting a fee for each unit of capacity in each policy area. This would likely yield a more active pipeline, since developers would be disinclined to purchase development capacity unless they were ready to use it. However, it would increase the cost of development, which might further depress development activity. It may also confer additional rights to capacity purchasers.

Allocate New Capacity to New Development: Currently, publicly-funded development capacity is first allocated to erasing deficits and secondly to supporting new development. Under certain circumstances (deficits caused solely by approved but unbuilt development or to allow publicly-desired development to move forward), the County may wish to allocate a portion of new capacity to new development even where a deficit exists. Development districts are one method for accomplishing this.

continued next page

1997 Options for "Pipeline Reform" continued

Remove Inactive Projects From the Pipeline

Shortening the time limit on a finding of adequate public facilities: A simple shortening of the time period would give each project less time to move to construction and allow the County to remove inactive projects earlier. A danger is that active projects will be removed as well. Varying the time limit based on size and type of development would address these concerns.

Transferable staging ceiling: This allows developers with unapproved projects to purchase development capacity from another developer already in the pipeline in the same policy area. In other words, an inactive project would be replaced by a new, presumably more active project. This would increase developer's access to capacity and may increase the likelihood that the capacity would be used. A concern is that a market in capacity may confer rights to "owners" of that capacity that they do not currently have.

Wait for 2001: The first projects subject to the 12-year APF time limit will see their approvals expire in 2001. If the current pipeline ages four years without completion activity, the amount of jobs development removed because of APF expiration will be significant: about 130 commercial projects containing almost 40,000 jobs (35 percent of the current jobs pipeline). Much of that capacity would be available for new approvals.

Increasing the Amount of Approved Development

Discounting the pipeline: This typically means assuming that a percentage of the pipeline will never be built, and allowing approvals above the staging ceiling commensurate with that percentage. Alternatively, the County could allow unlimited approvals in every policy area where the 12-year forecast is supported by the transportation network (because there is a 12-year time limit on APF approvals). This method depends on an accurate forecast of future development activity by policy area. If an unanticipated change in market conditions occurs, the County may find that it approved more development than the transportation network can handle.

Counting public facilities programmed beyond the fourth year of the CIP: The County previously counted the capacity created by partially-funded infrastructure in the later years of the capital budget. Delays in or cancelling of these projects can result in development approvals for which there is no transportation capacity.

Accelerate Transportation Infrastructure Delivery: The County could allocate more of its budget to transportation projects; the state could increase the amount of transportation funding for projects in Montgomery County. At the County level, this would mean a reduction in expenditures for other County priorities. The County already engages in efforts to secure needed funding from the state.

Reducing or modifying level of service standards to allow more development to be approved: If more congestion is permitted, more development can be approved.

Allowing approvals in moratorium areas in exchange for a fee: This is currently permitted by the Alternative Review Procedure for Limited Residential Development. A detailed analysis of this procedure is contained in this report.

Mechanisms for helping developers create their own capacity: The County requires that developer-funded infrastructure be under construction and funds committed to its completion before development can begin. The County could relax this requirement to allow developers to use revenues from partially-completed projects to finance infrastructure. A danger is that the County may see the partially-completed development, but not the infrastructure. Development districts do not relax this requirement, but make infrastructure more affordable to the private sector through the use of bonds.

with relative safety begin now to release the capacity expected to be recovered in 2001.

"The Planning Board suggests that recovered capacity first be allocated to a policy area's deficit, just as it would be under current rules. Recovered capacity in excess of that deficit, however, would be available for new approvals. A review shows that this method would have very little impact on the housing pipeline, but would provide significant additional capacity for non-residential approvals.

"As the Board envisions it, this would be a one-time discount that would be "paid for" in 2001 when capacity is recovered. The Board does not recommend continuously discounting four years into the future; if the County's experience is successful with the limited form of discounting the Board is suggesting, then continuous discounting may be worth considering.

"The fact that the discount would look four years into the future is consistent with the AGP's usual practice of counting capacity that will be available four years from now.

"In policy areas such as Fairland/White Oak and Derwood, there would be no practical effect of the discount because the deficit in these areas is larger than the number of potential recovered jobs. However, some areas would come out of moratorium (Clarksburg and Montgomery Village/Airpark), while others would see significant additional capacity. In the main, the I-270 Corridor would see most of the new capacity. This is an area of the County where future job growth is expected and desired.

"The risk of this approach is that the County will discount too much, that the market will revive more than anticipated, and the recovered capacity in 2001 will be much less than expected. Because the County will also see considerable recovered capacity in 2003, the Board believes this risk is minimized.

"The Board's recommendation to discount the pipeline should not overshadow the Board's belief that the commercial pipeline is already large -- large and varied enough to meet market demand for new commercial structures. The pace of development is primarily driven by market conditions and governed by a range of government regulations, not all of them contained in the AGP. It is important, therefore, that the County continue to identify barriers to construction of projects that have already been approved.

"The County is already deploying significant resources toward analyzing the factors governing non-residential development. These efforts include a comprehensive inventory of the characteristics of all significant commercially-zoned sites, an analysis of the County's competitiveness, and an analysis of the County's fairly large inventory of under-utilized Class B and C office space.

"To some extent, the "pipeline reform" issue has been propelled by the assumption that it is the Annual Growth Policy that is a major factor in inhibiting the pace of non-residential development. That assertion has been unprovable as long as non-residential development was not occurring elsewhere in the region, either. Now that the office market has improved to the point that some construction activity has returned, it may be easier to determine to what extent local factors affect the pace of development and whether or not these factors can or should be modified by local government action."

In 1997, the main focus of discussion during the AGP Policy Element worksessions was the "pay-and-go" procedure, which was ultimately adopted. The Planning Board suggested that it was not appropriate for both "pay-and-go" and the pipeline discount to be implemented, and the Council agreed. The County Council did not debate the APF time limits issue but agreed to review it in the next (1999-2001) AGP Policy Element.

The Planning Board's interpretation of the eight years of intermittent review and discussion of this issue is that there has been, at most times and by most participants, agreement that APF time limits should reflect the size and type of development projects. Whenever the Board has tried to develop criteria for setting APF time limits, however, there has been much less agreement. Development projects can be very similar in basic ways, but highly individual in others. That is why the Board's current recommendation includes general but not rigid criteria for setting APF time limits.

Current Montgomery County Planning Board Recommendations for Setting APF Time Limits

The Montgomery County Planning Board recommends that the time limit for a finding of adequate public facilities be tied to the size, type and location of the development project being approved. APF time limits would range from six to twelve years. The process for determining the APF time limit for a development project would follow the same process currently in place for the phasing of record plats. Although the Planning Board would have the ability to set time limits based upon the individual characteristics of each application, the general guideline would be that a non-residential project would receive a six-year approval if it consisted of less than 150,000 square feet or consisted of only one building, and a residential project would receive a six-year approval if it consisted of less than 200 housing units. If adopted, the new approach to setting APF time limits would apply to new approvals only.

This recommendation follows upon the information gained in the previous eight years of reviewing this issue. In addition, it builds upon a successful process already in place to make the connection between the size of a development project and appropriate time limits for certain actions. This is the process which allows for the phasing of the

recording of plats. This process was adopted as an amendment to the subdivision regulations in 1994.

Current Process for the Phasing of Record Plats

Under most conditions, a preliminary plan remains valid only if the land covered by the plan is recorded by record plat(s) within a three-year period. This places a greater burden on larger development projects than small ones and for this reason the subdivision ordinance was amended in 1994 to allow the recording of plats to be phased. Significant features of the ordinance regarding the phasing of record plats are:

1. A single-phase project is automatically given a time limit of three years to record. A multi-phase project may have until the end of the preliminary plan's APFO validity period (currently 12 years) to record.

2. Each phase in a multi-phase project must be no more than three years.

3. Each phase is assigned a validity period, the duration of which must be proposed by the applicant as part of an application for preliminary plan approval, or an application for preliminary plan revision or amendment. This is reviewed by staff and approved on a case-by-case basis by the Planning Board, after giving consideration to such factors as the size, type and location of the project.

4. Validation of a preliminary plan for a phase occurs upon the recordation of a final record plat for all property delineated in that particular phase of the approved preliminary plan.

5. If an applicant finds that he/she cannot meet the phasing schedule, he/she can apply to the Planning Board to revise the phasing schedule. This is not treated as a simple extension but rather as a revision to the preliminary plan.

The Montgomery County Planning Board is recommending that the same approach be applied to the APF time limits of a preliminary plan; that is,

1. The Montgomery County Planning Board would set the APF time limit of a subdivision at the time of preliminary plan approval. The default APF time limit for a preliminary plan of subdivision would be 6 years from the date of preliminary plan approval. A multi-phase project could receive a time limit of up to 12 years.

2. Although a preliminary plan must be a "multi-phase" project (as defined for record plat phasing purposes), the resulting APF time limit would apply to the

whole subdivision. In other words, the APF time limit is not phased. For example, a two-phase subdivision might be phased for record plat purposes so that one-half of the property must be record in the first 3 years and the second half recorded in the first six years. This same subdivision might have an APF time limit of six years, which means that all of the property in that subdivision has an APF time limit of six years.

3. Apart from meeting the requirements of the recordation phasing schedule, or other specific requirements of the preliminary plan, there would not be "performance criteria" or "milestones" that the subdivision would have to meet in order to retain its APF time limit. That is, a six year project would not have to be 50 percent built-out in three years to retain the APF approval on the remaining half of the property.

4. A notable feature of the subdivision ordinance language regarding the phasing of record plats is that the ordinance does not specify in advance the "size, type, and location" of development projects that would automatically "earn" longer phasing schedules. Similarly, the Board is not proposing rigid criteria in advance for setting APF time limits. The Planning Board may wish to adopt guidelines to setting APF time limits, however, to give applicants a sense of what time limits can be expected and to provide continuity over time. The Board is recommending that the general guideline for a longer-than-6-year approval be: for non-residential projects, those that consist of more than one building and more than 150,000 square feet; for residential projects, those that consist of more than 200 units.

Extensions/Revisions to an APF Time Limit

Currently there is no provision in the subdivision ordinance for extending APF time limits beyond 12 years. With shorter APF time limits, revisions/extensions may be more appropriate. The subdivision provides "Grounds for Extension of the Validity Period of a Preliminary Plan" which the Board believes could appropriately be applied to extensions of an APF period, although in general the Board believes changes to a subdivision's APF time limit should be treated as revisions to the preliminary plan, rather than as extensions, consistent with the procedures for phasing record plats. However, the "grounds" identified for granting validity period extensions provides a helpful guide to the conditions under which revised APF time limits might be granted by the Planning Board.

The Planning Board may grant extensions to the validity period of a preliminary plan (that is, extensions on the time period within which plats must be recorded) if the Board is persuaded that:

1. delays, subsequent to the approval by the government or some other party, essential to the applicant's ability to perform terms or conditions of the plan approval, have materially prevented the applicant from validating the plan, provided such delays are not created or facilitated by the applicant; or

2. the occurrence of significant, unusual, and unanticipated events, beyond the applicant's control and not facilitated or created by the applicant, have substantially impaired the applicant's ability to validate its plan and that exceptional or undue hardship (as evidenced, in part, by the efforts undertaken by the applicant to implement the terms and conditions of the plan approval in order to validate its plan) would result to the applicant if the plan were not extended.

The Planning Board, in considering a request for an extension, may condition the grant of an extension on the condition that the applicant revise its plan to conform with changes to applicable laws or regulations that may have occurred since the time of the plan approval and that are intended to have application to the project.

The Planning Board may deny the request if it is persuaded that the project, as approved and conditioned, is no longer viable. In considering the viability of the project, the Board must consider such factors as whether the project is capable of being financed, constructed, and marketed within a reasonable time frame and demonstrated by the applicant upon request by the Planning Board and its staff. The Planning Board must hold a public hearing on the request for an extension.

The applicant bears the burden of establishing the grounds in support of the requested extension. There should be no presumption by the applicant that an extension will be granted by the Planning Board. In voting to approve an extension, the Board may only grant such minimal time as it determines to be necessary for the applicant to validate its plan. The Board will not grant an extension to a preliminary plan which has the effect of extending the plan's validity period beyond any established APFO validity period. An applicant may request and the Board may grant one or more extensions.

In general, the Montgomery County Planning Board believes these conditions/ terms could appropriately be applied to requests to revise a preliminary plan to change an APF time period. The main difference would be that, rather than extending the time within which a developer must record, the Planning Board would be increasing the time within which the developer must receive his building permits.

In previous reviews of this issue, there has been general sympathy for the idea that subdivisions which provide the infrastructure to needed to support the subdivision may be given more leeway (in terms of APF time limits) than subdivisions which are approved based upon publicly-funded infrastructure. The Planning Board would support a policy of

giving subdivisions providing their own development capacity an automatic 12-year APF time limit.

Qualifying subdivisions would include those participating in a development district, or approved under the Staging Ceiling Flexibility provisions of the AGP. It would not apply to subdivisions who gained approval by paying a fee or tax in lieu of providing the needed infrastructure.

Conclusion

The Montgomery County Planning Board believes that all of the necessary and relevant studies have been completed relating to the setting of APF time limits for subdivisions in the future. The Board believes strongly that there is a sound basis for varying APF time limits by the size, type and location of the subdivision. Based upon past discussions, the Board also believes that APF time limits should be set on a case-by-case basis, although Board adoption of APF time limit guidelines would be helpful to both the Board and applicants (the general guideline of 150,000 square feet for non-residential projects and 200 housing units should suffice until such guidelines are developed and implementation of this recommended method for setting APF time limits should not be delayed until such guidelines are adopted, however).

Appendix 3b

Review and Analysis of the Alternative Review Procedure for Expedited Non-Residential Development ("Pay-and-Go")

A Brief History of Pay-and-Go

The "Pay-and-Go" provisions of the Annual Growth Policy were approved by the County Council in November 1997 as part of the biennial policy review of the AGP. The procedure went into effect in February 1999. Initially, pay-and-Go permitted developers of residential and non-residential projects to avoid the AGP's transportation requirements by paying a tax. In May 1999, the County Council limited use of pay-and-go to non-residential development, although it grandfathered residential projects that had already filed an application to use pay-and-go.

All non-residential subdivisions, including subdivisions that have never gone through the approval process, as well as non-residential subdivisions which have received approval but have not yet been built, may use Pay-and-Go. Previously-approved subdivisions that wish to be re-approved under Pay-and-Go must comply with any new requirements that have come into effect since the plan was originally approved (e.g., forest conservation, etc.).

Pay-and-Go is optional; that is, a developer has the option of *not* using Pay-and-Go if it is not to his benefit. Pay-and-Go may not be to a developer's benefit if: (1) there is sufficient staging ceiling in the policy area for the project to pass Policy Area Transportation Review (PATR), (2) the project is not large enough to be subject to Local Area Transportation Review (LATR) or would not cause nearby intersections to exceed the level of service standard for those intersections, (3) the cost of transportation improvement conditions required under PATR or LATR is less than the Pay-and-Go tax, (4) the developer does not want his project to be subject to subdivision regulations enacted since the project was approved, and/or (5) the developer does not want to be subject to the "use it or lose it" provisions included in Pay-and-Go.

As adopted, Pay-and-Go will be in effect for four years; that is, until 2001. Projects approved under Pay-and-Go have two years from date of approval to record, and two years from recordation to proceed to construction.

The AGP contains the Pay-and-Go rules and procedures; the rates of the Pay-and-Go tax are set in the County Code. The Pay-and-Go tax (official term: Expedited Development Approval Excise Tax) rates are the following:

Expedited Development Approval Excise Tax Rates

Non-Residential Buildings	**Moratorium Area tax per square foot**	**Non-Moratorium Area tax per square foot**
Non-Profit Org: Direct Service Provision	$0.50	$0.25
Non-Profit Organization - Offices	$1.00	$0.50
Warehouse/Industrial/R&D	$3.00	$2.00
Office/Other	$3.50	$2.50
Residential Buildings	**Moratorium Area tax per unit**	**Non-Moratorium Area tax per unit**
Single-Family Detached Housing Unit	$4,500	$3,000
Townhouse	$3,500	$2,250
Multi-Family (apartment, condo)	$2,500	$1,500

The legislation that established the Pay-and-Go tax rates also reduced the impact tax for office and industrial buildings to $1.00 per square foot. The previous rate in Germantown was $4.00 per square foot.

The Planning Board's Previous Positions on Pay-and-Go

The Planning Board's initial position on Pay-and-Go is contained in the July 1, 1997 Addendum to the Annual Growth Policy *Policy Element*. A quote below from the addendum summarizes the Board's position. Generally, the Board felt that Pay-and-Go would not be an effective stimulus to new non-residential construction because a small minority of development projects would benefit from it, and those would be the projects that have the most expensive transportation infrastructure needs. A more effective approach would be to permit additional approvals in areas where existing transportation infrastructure is going unused, and to provide a stimulus that could be used by any of the many previously-approved subdivisions for which there is already transportation infrastructure.

From the AGP Policy Element Addendum:

The Planning Board recommends a two-pronged approach to provide a measured stimulus to non-residential development in Montgomery County to alleviate short-term shortages in available space:

1. Discount the pipeline of approved development based upon year 2001 removals. *This would increase the amount of approvable development by enough to accommodate over 28,000 additional jobs, primarily in high growth areas of the County where the so-called "paper moratorium" has been an issue...*

2. Provide property tax credits for new non-residential construction. *The Planning Board is recommending that the County Executive explore tax credits to stimulate construction activity. As envisioned by the Board, these would be credits for newly constructed buildings for new or expanding County employers other than retail. The tax credits would be limited in scope and duration, designed to ensure that County job growth is not depressed by a lack of available space.*

The Planning Board understands the building industry's desire for a more "certain" development approval process and would consider supporting a greatly modified version of Mrs. Ewing's proposal. Specifically, the Board believes a "pay-and-go" alternative in the Annual Growth Policy should:

1. Not be available to previously-approved subdivisions. *Permitting already-approved subdivisions to be relieved of their transportation conditions would have serious negative consequences. The Board offers South Germantown as an example of an area where the existing roadway network could not possibly handle the traffic from approved development unless new road facilities proceed ahead of subdivision construction.*

2. Be available for less than five years. *The Board believes the proposed five-year window is essentially no limit on the amount of approvals, and the impact would last as long as those approvals remain the pipeline.*

3. Limit the amount of development that can be approved. *The Board believes the County should determine the maximum amount of development that it is willing to approve under this procedure.*

4. Be limited to County growth areas. *The Board believes the alternative should only be available in areas of the County where growth is encouraged and negative transportation impacts minimized. "Pay-and-go" should not be available in areas where the revenues would not lead to a solution, such as areas where no transportation improvements have been identified, or where the only possible improvements await state funding.*

In October of 1997, the Planning Board offered a more specific alternative to Councilmember Gail Ewing's proposal. The Board recommended that eligibility for Pay-

and-Go should be limited to non-residential development that has not already been approved, that it be available only in the policy areas in the I-270 Corridor, that the payment be increased to equal the Development Approval Payment, and that the County should fund a CIP project to pay for the County's share of required infrastructure.

In the CIP project, the Council would determine in advance the amount of funds available to pay for roads to support development approved under Pay-and-Go in any fiscal year. As subdivisions are approved under Pay-and-Go, the cost of roads needed to support the subdivision would be subtracted from the total. Once all of the money from the CIP project is allocated, the Planning Board would not approve any more subdivisions under Pay-and-Go until the CIP project received additional funding.

The version of Pay-and-Go approved by the Council responded to the Planning Board's recommendations in two ways: the approved version has shorter time limits (the procedure will be in effect four years and approved projects must proceed to record plat in two years and must receive building permits within two years of record plat) and the Pay-and-Go tax rates are somewhat higher than originally proposed. The Council did not discuss the issue of how the public sector would provide the infrastructure needed to support development projects approved under Pay-and-Go.

The Board did not take a position on the reduction in the impact tax for office and industrial buildings because that was not part of the original proposal and was added after the Board's recommendations were developed.

Addition of Pay-and-Go to AGP Policy Element Work Program

In March, Councilmembers Praisner and Andrews requested that the Planning Board revisit the issue of pay-and-go in the *1999-2001 AGP Policy Element*, specifically reviewing the original Planning Board recommendations that would have limited eligibility to projects in the I-270 corridor, and the following variations: include Metro station policy areas, increase the rates or relate rates to area infrastructure needs within these eligible policy areas, limit eligibility to those applications that fail because of background (approved but unbuilt development), and eliminate current exemptions (i.e., the first 1,200 square feet, buildings owned by non-profits, etc.).

The schedule for review of the *1999-2001 AGP Policy Element* is as follows: the Planning Board is required to prepare a *Final Draft AGP Policy Element* by June 15. Planning Board worksessions have been scheduled on June 3 and June 10 for this purpose. The Final Draft is then sent to the County Executive and the County Council. The County Executive has forty-five days to review the Planning Board's recommendations and prepare comments for the Council. The Washington Suburban Sanitary Commission and Montgomery County Public Schools also have an opportunity to review the Final

Draft. The County Council will hold a public hearing, generally in mid to late September, on the Planning Board's Final Draft and the County Executive's comments. Council worksessions follow in October, and any changes to AGP policies adopted by the Council go into effect November 1, 1999.

Effect of Pay-and-Go

Pay-and-Go was enacted in 1997, during a period when the pace of commercial development was at historic lows. Because the County's job growth had begun accelerating in 1996, vacancy rates for many kinds of commercial development (office, industrial, and "flex" space) fell, and there was concern that a lack of supply of space would inhibit the County's economic recovery.

Because pay-and-go was enacted chiefly to stimulate the non-residential development market, and because residential development was eligible for pay-and-go only briefly, the Planning Board's review of the effect of pay-and-go will focus on non-residential development.

Pay-and-go stimulated subdivision approvals, not construction, and because none of the major pay-and-go approvals have yet to proceed to construction, the effect of pay-and-go thus far has been negligible. Because the commercial development economy has improved since 1997, commercial projects approved without pay-and-go are moving forward. Even if a substantial number of pay-and-go projects are eventually constructed, it is impossible to say whether those projects are meeting a need that could not have been filled by projects that were already in the pipeline.

Non-Residential Development Approved Under Pay-and-Go During the First Year

- About 1.7 million square feet of commercial space was approved under Pay-and-Go February 1998 through May 20, 1999. About 45 percent (782,200 square feet) was a previously-approved project – IBM – in Rock Spring Park. New commercial development approved under Pay-and-Go was 921,378 square feet.
- Apart from the IBM project, there were just four commercial projects approved under pay-and-go that were larger than 50,000 square feet. These were the Gude North Commercial/Industrial park in Derwood (355,000 square feet), Decoverly Hall South in the R&D Village (236,000 square feet), the Goshen Oaks Shopping Center in Montgomery village/Airpark (62,000 square feet), and the Landy Lane Office Addition in Bethesda-Chevy Chase (50,855).
- There have been sixteen pay-and-go commercial approvals of less than 50,000 square feet. The average size of these sixteen projects was 13,604 square feet.

- The size of the IBM project means that North Bethesda is the policy area with the largest amount of commercial development approved under pay-and-go. The policy area with the most NEW development approved under pay-and-go is Derwood, with 438,800 square feet approved. The R&D Village is second with 276,300 square feet approved. Third is Montgomery Village/Airpark with 114,500 square feet.
- Table 1 shows commercial pay-and-go approvals by policy area. Not on the list are the two churches that have been approved.. Churches are exempt from the pay-and-go tax.

Residential Development Approved Under Pay-and-Go During the First Year

Residential development was eligible to use pay-and-go from February to May, 1998. Eligible projects continue to make their way through the development approval process.

- There were a total of 650 housing units approved under pay-and-go from February 1998 through May 1999.
- More than half (351) of these housing units were in the Fairland/White Oak Policy Area The second largest number of units were in the North Potomac policy area with 154; followed by Damascus with 118, and Montgomery Village/Airpark with 27.
- Residential approvals under pay-and-go is now limited to subdivisions which filed prior to May 13, 1998. There are still several projects that filed before that date that have not yet expressed an interest in going through the approval process. These total 348 units. The County Council may not have intended to provide these projects with an unlimited time period to be approved under pay-and-go and may wish to consider specify a date by which these projects should move through the approval process.

The reapproval of the IBM project in Rock Spring Park saved that project (or cost the County) about $2.7 million dollars (the pay-and-go tax is $3.50 per square foot; the project's "loophole" fee was $7.00 per square foot). Of course, the Planning Board does not know if IBM would have moved to construction without pay-and-go, although they might have, since their original approval would have expired in 2001.

While pay-and-go permitted a significant amount of development to be approved in certain policy areas – R & D Village, Derwood, and Montgomery Village/Airpark – the Planning Board believes a reason it was not more utilized is the relatively narrow time frame required by pay-and-go. Pay-and-go approvals have two years to record and two

years from recordation to get all building permits for the project. This is a total of four years only if the developers takes the full two years to record. The requirement to pay 10 percent of the pay-and-go tax at subdivision may also have dissuaded applications from developers not ready to move to construction quickly.

Concluding Note

The Montgomery County Planning Board is recommending substantial changes to the Alternative Review Procedure for Expedited Non-Residential Development, which are discussed in detail in *Issue 4: Restructuring the Annual Growth Policy.*

Table 5
Commercial Development Approvals Under the Alternative Review Procedure for Expedited Non-Residential Development ("Pay-and-Go")

Commercial Development Approved Under "Pay-and-Go" as of May 20, 1999

Sorted by Policy Area

Date Approved	Subdivision Name	Square Feet	Policy Area
April 8, 1999	Rock Creek Manor Retail	12,270	Aspen Hill
	Total Aspen Hill:	*12,270*	
March 4, 1999	Landy Lane - Office Addition	50,855	Bethesda-Chevy Chase
	Total Bethesda-Chevy Chase:	*50,855*	
May 13, 1999	Exxon/Convenience Store	2,660	Cloverly
March 25, 1999	Exxon/Convenience Store	3,412	Cloverly
	Total Cloverly:	*6,072*	
November 19, 1998	Griggs Add'n to Damascus (retail)	10,125	Damascus
March 11, 1999	Burger King	2,532	Damascus
	Total Damascus:	*12,657*	
November 19, 1998	Gude North(Commercial/Industrial)	355,105	Derwood
May 13, 1999	Bauer Tract Office	30,080	Derwood
April 4, 1998	D. Sullivan Property	1,850	Derwood
November 12, 1998	Washingtonian Industrial Park	21,600	Derwood
July 30, 1998	Scandinavia Import Center	16,500	Derwood
June 18, 1998	Redland Parcel H	6,400	Derwood
May 13, 1999	Burgandy Park Office/Warehouse	7,293	Derwood
	Total Derwood:	*438,828*	
January 14, 1999	Day Care	9,897	Germantown West
	Total Germantown West:	*9,897*	
June 4, 1998	Goshen Oaks Shopping Center	61,589	Montgomery Village/Airpark
January 14, 1999	Amoco/McDonald's	5,516	Montgomery Village/Airpark
July 16, 1998	Centerway Business Park	47,400	Montgomery Village/Airpark
	Total Montgomery Village/Airpark:	*114,505*	
November 12, 1998	Rock Spring Park - IBM*	782,200	North Bethesda
	Total North Bethesda:	*782,200*	
October 8, 1998	Tropia Property	18,640	R&D Village
July 16, 1998	Shadt Grove Life Sciences Center	21,498	R&D Village
January 7, 1999	Decoverly Hall South	236,156	R&D Village
	Total R&D Village:	*276,294*	
	Total:	**1,703,578**	

Source: M-NCPPC Development Review Division, May 27, 1999

Table 6
Summary of Residential and Non-Residential Development Approved
Under the Alternative Review Procedure for
Expedited Development ("Pay-and-Go")

PAY AND GO APPLICATIONS APPROVED

February 1998 to May 1999

SUMMARY REPORT

Month	Number Residential Units	Sq. Ft. Commercial	Total Fee	10% Paid
February, 1998	70	0	$223,000.00	$22,300.00
March, 1998	0	0	$0.00	$0.00
April, 1998	7	1,850	$33,775.00	$3,377.50
May, 1998	100	0	$450,000.00	$45,000.00
June, 1998	78	67,989	$588,961.00	$58,896.10
July, 1998	85	85,398	$645,744.00	$64,574.40
August, 1998	0	0	$0.00	$0.00
September, 1998	95	0	$401,500.00	$40,150.00
October, 1998	21	18,640	$159,880.00	$15,988.00
November, 1998	11	1,169,030	$3,280,524.50	$328,052.45
December, 1998	49	0	$220,500.00	$22,050.00
January, 1999	0	251,569	$841,648.00	$84,164.80
February, 1999	115	0	$443,000.00	$44,300.00
March, 1999	19	56,799	$235,920.00	$23,592.00
April, 1999	0	12,270	$42,945.00	$4,294.50
May, 1999	0	40,033	$109,330.00	$10,933.00
	650	1,703,578	$7,288,532.50	$728,853.25

Appendix 3c

Calculating the Cost of Infrasstructure to Support Growth

As background for the discussion of Issue 4, "Restructuring the Annual Growth Policy," the Planning Board is providing this material on impact taxes, the development approval payment, the expedited development approval excise tax, and other proposed or implemented taxes on development to pay for infrastructure.

Over the past several years, a number of analyses have been performed which estimated the per unit and/or per square for cost of transportation infrastructure. These were summarized in the 1997-1999 AGP Policy Element. They include the analysis done for a proposed expansion of the impact tax in 1996, the Clarksburg Master Plan fiscal impact analysis, the Economic Advisory Council's Study of Infrastructure Financing, and the proposed Germantown West development district. In addition, the staff of the Department of Public Works and Transportation reviewed the cost of transportation improvements that have been implemented by subdivisions in the past.

These analyses provide several perspectives on how the cost of infrastructure to support growth may be allocated. In addition, the Board has included a table of impact taxes charged by other Maryland counties compiled by the Maryland Office of Planning.

Proposed Expansion of the Impact Tax

In 1996, the County Council considered expanding the impact tax (currently in effect in Germantown and Eastern Montgomery County) to Clarksburg and to "Greater Gaithersburg" (the policy areas of Gaithersburg City, Montgomery Village/Airpark, R&D Village, Derwood, Shady Grove, and North Potomac). The analysis for that proposal calculated the total amount of additional development planned for these areas and the cost of the master-planned roads needed to support that development. It excluded roads that would be state-funded and did not include non-road transportation improvements. It was assumed that new development should pay for one-half of the cost of the cost of the roads needed to support it.

Table 1 shows what the impact tax would be if it were set equal to 100 percent of the cost of master-planned County roads in the four areas. The proportion of the total cost assigned to each type of development is equal to the proportion each type of development contributes to traffic congestion (trip generation).

That analysis estimates that the per-unit cost of County roads to support new residential development at around $4,200 per single-family home (attached or detached)

Table 1: Impact Tax Expansion Bill 1-96
Estimate of Cost of Roads
Per Unit of Development

Land Use Type	Germantown	Eastern Montgomery	Greater Gaithersburg	Clarksburg
Residential (per unit)				
Single-Family	$4,168	$1,942	$4,226	$4,168
Multi-Family	2,778	1,294	2,818	2,778
Non-Residential (per 1,000 square feet)				
Office	$9,398	$4,378	$9,530	$9,398
Industrial	4,086	1,904	4,144	4,086
Retail	8,498	3,958	8,620	8,498
Places of Worship	490	228	498	490
Private Schools	818	380	828	818
Other Non-residential	9,398	4,378	9,530	9,398

Note: Roadway network did not include state roads. Did not assess additional intersection improvements that may be required to meet LATR conditions. Proportion of cost assigned to each land use type equals the proportion of total trip generation from that land use type.

This table was included in 1997-99 AGP-Policy Element. Original Source: County Council staff

Table 2: Clarksburg
Estimate of Cost of Roads
Per Unit of Development

Fiscal Impact Analysis

Per Unit/sf

Land Use Type	Amount of Development	Total Cost	Per Unit/sf Cost
Residential (units)			
Single-Family Detached	4,112	$7,862	$32,180,680
Single-Family Attached	4,218	$5,323	22,453,060
Multi-Family	1,822	$3,593	6,546,260
Non-Residential (square feet)			
Office	755,100	$16.51	$12,466,275
Retail	491,000	20.01	9,827,175
Industrial	1,132,650	11.01	12,466,275
Total:			$95,939,725

This table shows the amount of additional development permitted by the Clarksburg Master Plan (i.e., 4,112 single-family detached housing units) and the net cost of roads needed to support that development ($95,939,725). The total cost of roads is $143,200,000. The other $47 million is assumed to be paid for by a share of property and income tax revenues generated by the new development. Per unit or per square foot cost based upon trip generation.

This table was included in 1997-99 AGP-Policy Element. Original Source: Office of Planning Implementation

and $2,800 for each multi-family unit. For non-residential development, the impact tax method estimates that the cost of County roads needed to support one square foot of new space is about $9.40 per square foot for office space, $8.50 per square foot for retail space, and about $4.10 for industrial space.

Clarksburg Master Plan Fiscal Analysis

In the Clarksburg Master Plan Fiscal Analysis, the Office of Planning Implementation estimated the cost of transportation needed to support development permitted by the Clarksburg Master Plan at $143 million. The analysis first calculated the additional revenues (property and income taxes) that the County would be receiving from the new development (about $47 million). The remaining $96 million is the amount that would be paid by new development, by the County, or a combination of the two.

To provide a comparison to the impact tax, OPI estimated (for the 1997-1999 AGP Policy Element) the per-unit and per-square-foot cost if new development in Clarksburg were to pay for the full $96 million needed to pay for transportation improvements to support it. For residential development, the per-unit cost of new infrastructure was estimated at just over $7,800 for detached housing, $5,300 for attached housing, and $3,600 per unit for multi-family housing. Table 2 shows these calculations.

For non-residential development, OPI estimated that the per-square-foot cost of transportation infrastructure at about $16.50 per square foot of office space, $20.00 per square foot for retail space, and $11.00 per square foot for industrial space.

EAC Study of Infrastructure Financing

Four years ago, the County Executive's Economic Advisory Council prepared a study of infrastructure financing. This study estimated the total amount of planned development Countywide that had yet to be constructed (about 200,000 housing units and about 300,000 jobs) and the total cost of transportation improvements needed to support that development (about $5.3 billion). Assuming the County's share of that cost at 42.5 percent ($2.25 billion), the EAC suggested that one-third of the County's share ($750 million) be paid by a construction excise tax levied on new development.

Using the EAC's analysis, OPI estimated (again, for the 19997-1999 AGP Policy Element) the per-unit and per-square-foot cost to new development if new development were to pay for one-third of the cost of transportation infrastructure needed to support it. These estimates do not break out residential or non-residential uses by type. On a per-unit basis, one-third of the cost of new transportation infrastructure would be about $2,300 per unit. If residential development paid 100 percent of its costs, the per-unit cost would be $6,900 per unit.

OPI performed a similar analysis for non-residential development. One-third of the cost of new transportation infrastructure needed to support non-residential buildout would be $2.27 per square foot. One hundred percent would therefore be about $6.80 per square foot. Table 3 shows the result of this analysis.

Germantown West Development District

Development districts consist of several subdivisions that are reviewed under the AGP as a single subdivision; the district can take advantage of the County's bonding authority to financing needed infrastructure.

For the 1997-1999 AGP Policy Element, OPI estimated the per-unit and per-square-foot cost of the transportation infrastructure needed for the Germantown West Development District. For residential development, the per-unit cost of new infrastructure was estimated at $11,600 for detached housing, $9,700 for attached housing, and $1,787 per unit for multi-family housing.

Table 3: Countywide
Estimate of Cost of Roads Per Unit of Development
Assuming New Development Pays One-Third of County's Share of Cost
Using Economic Advisory Council Study of Instrastructure Financing

		Economic Advisory Council	
Land Use Type	**Amount of Development**	**Per Unit/sf 1/3 Cost**	**One-Third Total Cost**
Residential (units)	200,000	$2,313	$462,600,000
Non-Residential (square feet)	109,400,000	$2.27	$243,900,000
Total:			$706,500,000

This table shows the amount of development at buildout countywide (450,000 housing units and 750,000 jobs) minus existing development. The total cost of instrastructure needed to support that additional development was estimated at $5.3 billion, of which the County's share was estimated at 42.5% ($2.25 billion). In addition, the analysis assumed that a portion of the County's share would be paid for with a Transportation Utility Tax levied on all existing and new development. The $706.5 million, then, is one-third the total cost, the amount expected to be funded with a construction excise tax.

The proposed construction excise tax was $813 per job. The equivalent per-square-foot charge was calculated by assuming an average of 365 square feet per job.

This table was included in 1997-99 AGP-Policy Element. Original Source: Analysis of Economic Advisory Council Study of Infrastructure Financingby the Office of Planning Implementation

Table 4: Germantown West-Development District
Estimate of Cost of Roads
Per Unit of Development

Land Use Type	Amount of Development	Development District Per Unit/sf Cost	Development District Total Cost
Residential (units)			
Single-Family Detached	1,103	$11,600	$12,794,288
Single-Family Attached	241	9,711	$2,340,419
Multi-Family	262	$1,787	$468,084
Non-Residential (square feet)			
Retail	114,000	$15.21	$1,733,643
Total:			$17,336,434

This table shows the amount of development in the Germantown West development district (i.e., 1,103 single-family detached housing units, etc.) and the cost of roads needed to support that development ($17,736,643) allocated on a per-unit or per-square-foot basis.

One developer participating in the development district was originally required to construct four lanes of A-297; the development district is only required to construct two lanes. If four lanes were required, the total cost would rise to $20,519,394.

This table was included in the 1997-99 AGP-Policy-Element. Original Source: Ofc. of Planning Implementation

For non-residential development, OPI estimates that the per-square-foot cost of transportation infrastructure at about $15.00 per square foot for retail space, the only type of non-residential space in the district. Table 4 shows the results of this analysis.

Transportation Costs Paid by Existing Subdivisions

For the 1997-1999 AGP Policy Element, the Department of Public Works and Transportation reviewed several subdivisions that contributed transportation infrastructure to determine the cost of that contribution.

A major example is the Milestone project in Germantown. This project consists of about 2,400 housing units and about 5.5 million square feet of non-residential space. DPWT estimated the value of the roadway network improvements made by Milestone at over $39 million.

Two other examples are in Fairland/White Oak. Coscan/Shientel paid for about $1.5 million for transportation conditions, or about $15,000 per single-family home. West*Farm paid about $1.71 per square foot for its contribution.

Table 5 shows the results of this analysis. DPWT noted that its calculation of the value of these improvements does not include costs for planning, design, and engineering, tasks which would have to be performed.

Proposed and Implemented Development-Related Taxes in Montgomery County

Attached is a table showing proposed and implemented development-related taxes in Montgomery County. These include the impact tax in Germantown and Eastern Montgomery County (revised February 1999), the development approval Payment, the Expediate Development Approval Excise Tax, and the never-implemented construction excise tax.

Impact Tax Rates in Other Maryland Jurisdictions

Also attached is a copy of a table compiled by the Maryland Office of Planning showing impact tax rates in other Maryland localities. The County Council staff reviewed these impact taxes in a memo to the Council of February 22, 1999. They noted that

> *"Montgomery County was one of the first jurisdictions to adopt impact fees in Maryland. Now, however, 11 Maryland counties have impact fees or taxes: 7 to fund public schools, 4 for roads, 3 for parks and recreation, one for fire and emergency services, one for solid waste disposal systems, and one for the purchase of agricultural land preservation easements (6 counties have more than one impact tax or fee). The...impact tax rates in Montgomery County are comparable to the rates in surrounding jurisdictions, although most of those taxes are paying for school facilities, not roads. The main differences with other jurisdictions are:*
>
> - *In Montgomery County the taxes are applied only in two districts, comprising less than 10% of the County's area, while the other jurisdictions apply the residential tax countywide.*
> - *Most other jurisdictions (except Anne Arundel and Howard Counties) do not apply the tax to commercial and other non-residential development."*

Table 6
Comparison of Impact Tax, the Development Approval Payment, the Construction Excise tax, and the Expedited Development Approval Excise Tax

	Current Impact Tax Germantown	Current Impact Tax Eastern Montgomery	Development Approval Payment	Construction Excise Tax	Expedited Dev. App. Excise Tax Moratorium Area	Expedited Dev. App. Excise Tax Non-Moratorium Area
Residential Buildings	per unit	per unit	per 1,000 sq ft	per 1,000 sq ft	per 1,000 sq ft	per 1,000 sq ft
Single-Family Detached	$2,378	$1,558	$3,750	$3,750	$4,500	$3,000
Townhouse	$2,378	$1,558	$3,750	$3,750	$3,500	$2,250
Multi-Family Residential	$1,712	$1,122	$3,000	$3,000	$2,500	$1,500
Multi-Family Senior Residential	$507	$332	—	—	—	—
Minimum payment Single Family Detached	—	—	$1,500 per unit	—	—	—
Minimum payment Townhouse	—	—	$1,500 per unit	—	—	—
Minimum payment Multi-family	—	—	$1,200 per unit	—	—	—
Non-Residential Buildings	per 1,000 sq ft	per 1,000 sq ft	per 1,000 sq ft	per 1,000 sq ft	per 1,000 sq ft	per 1,000 sq ft
Office Space	$1,000	$1,000	$4,000	$4,000	$3,500	$2,500
Industrial Space	$500	$500	$2,400	$2,400	$3,000	$2,000
Retail	$4,849	$3,177	$4,000	$4,000	$3,500	$2,500
Places of Worship	$280	$183	$0	$0	$0	$0
Private Schools	$466	$305	$0	$0	$0	$0
Other	$5,382	$3,514	—	—	—	—

Notes on the Impact Tax
The Council modified the impact tax rates in February 1999.
Developers who pay the impact tax are still subject to the AGP's transportation tests.
When the Council passed pay-and-go, it also lowered the impact tax rate for office and industrial space only.
The Impact Tax is credited against the Development Approval Payment and the Expedited Development Approval Payment.

Notes on the Development Approval Payment
The Alternative Review Procedure for Metro Station Policy Areas requires the payment of the Development Approval Payment
Under the Alternative Review Procedure for Metro Station Policy Areas, payment of the development approval payment allows a developer to pass Local Area Transportation Review only.
When the Council initially approved "pay-and-go," it eliminated the Alternative Review Procedure for Limited Residential Development, the use of which required the payment of the Development Approval Payment.
When the Council amended pay-and-go so that it did not apply to residential development, it restored the ALternative Review Procedure for Limited Residential Development.
The Development Approval Payment is nearly identical to the Construction Excise Tax. The difference is that the DAP has minimum payment provisions.

Notes on the Construction Excise Tax
The Construction Excise Tax was not implemented.

Notes on the Expedited Development Approval Excise Tax
The Expedited Development Approval Excise Tax is the "pay" part of "Pay-and-Go."
Residential development was permitted to apply to use the Alternative Review Procedure for Expedited Development Approval between February and May 1999 only.
The Expedited Development Approval Excise Tax is calculated in a similar fashion to the DAP except for the rates and that residential development is charged on a per-unit basis, rather than per square foot.

Source: M-NCPPC review of Bill 34-97 (Transportation Facilities Payment and Impact Tax reduction), Bill 31-93 (Development Approval Payment), Bill 34-97 (Expedited Development Approval Excise Tax) and Bill 1-96 (Development Impact Tax); review of Bill 23-98 with County Council staff. Any errors are those of M-NCPPC staff.

Table 7
Impact Taxes in Maryland Counties
Compiled by Maryland Office of Planning

The Purpose and Amount of Impact Fees or Development Excise Taxes collected in the State of Maryland

County	Purpose for which Impact Fee or Development Excise Tax is collected	Amount of the fee or tax
Anne Arundel (IF)	road improvements	$108 to $1,413 per fee schedule: based on type of land use. May pay proportionate share of future improvements when the General Development Plan reflects adjustments to nearby roads.
	public school construction	$950 to $2,096 per fee schedule: based on type of land use.
Calvert (IF)	recreational sites & facilities acquisition and improvements	$600 per residential dwelling unit (du): based on a formula.
	solid waste disposal systems	$350 per residential du: $0.11/square foot of commercial, industrial, or institutional use.
	public school construction	$1,000 to $3,000 per residential du.
Caroline (DET)	public school construction: additions, expansions and debt reduction	$750 per new lot created by a subdivision anywhere in the county.
	agricultural land preservation easements purchase	$100 to $750 per lot based on a graduated scale ... depending on which lot number is being developed from the original tract: within a Rural District.
Carroll (IF)	public school construction	$1,121 to $4,023 per residential du.
	parks & recreation	$311 to $464 per residential du.
Charles (IF)	public school construction: land and other facilities	up to $5,000 per residential du.
Frederick (IF)	public school construction	$775 to $3,000 per residential du.

(IF) denotes that an Impact Fee is charged. (DET) signifies that a Development Excise Tax is collected. Prepared by the Maryland Office of Planning, Clearinghouse and Plan Review Unit, 1999.

Table 7 continued
Impact Taxes in Maryland Counties
Compiled by Maryland Office of Planning

The Purpose and Amount of Impact Fees or Development Excise Taxes collected in the State of Maryland

Prince George's (DET)	public school construction or related debt service	$700 to $2,500 per residential du.
Queen Anne's (IF)	public school construction	$1,247 to $2,280 per residential du.
	fire and emergency services	$55 per residential du. Commercial, industrial and institutional users in Grasonville, Kent Island, and Queenstown pay $0.15 per gross floor area of space.
St. Mary's (IF)	roadway construction	$200 per residential du.
	public school construction	$1,500 per residential du.
	parks & recreation	$300 per residential du.

County	Purpose for which Impact Fee or Development Excise Tax is collected	Amount of the fee or tax
Howard (DET)	roads , bridges, and intersection improvements (additional or expanded facilities & interest charges) contingent upon the adoption of an Adequate Public Facilities Plan	$400 for first 500 gross square feet of new residential construction then $ 0.80 per each additional square foot of building area that can be occupied for residential use. Office and retail uses charged $0.80 per square foot of building area that can be occupied. Distribution, manufacturing, and institutional uses charged $0.40 per square foot of building area that can be occupied.

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Final Draft

1999-2001 Annual Growth Policy *Policy Element*

Montgomery County Planning Board

Maryland-National Capital Park & Planning Commission

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